

# Public Document Pack



## LOCAL REVIEW BODY MONDAY, 17 SEPTEMBER 2018

A MEETING of the LOCAL REVIEW BODY will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on MONDAY, 17 SEPTEMBER 2018 at 10.00 am

J. J. WILKINSON,  
Clerk to the Council,

10 September 2018

BUSINESS		
1.	<b>Apologies for Absence.</b>	
2.	<b>Order of Business.</b>	
3.	<b>Declarations of Interest.</b>	
4.	<b>Consider request for review of refusal of application for erection of dwellinghouse with associated access road, parking area and combined entrance/layby on land west of Langton Birches, Duns. 18/00270/PPP. 18/00017/RREF.</b>  Copies of the following papers attached:-	
	(a) <b>Notice of Review</b>	(Pages 3 - 14)
	(b) <b>Decision Notice</b>	(Pages 15 - 16)
	(c) <b>Officer's Report</b>	(Pages 17 - 22)
	(d) <b>Papers referred to in Officer's Report</b>	(Pages 23 - 50)
	(e) <b>Consultation</b>	(Pages 51 - 52)
	(f) <b>List of Policies</b>	(Pages 53 - 60)
5.	<b>Consider request for review of refusal of application for change of use from retail to tattoo studio (retrospective) at 52 Bank Street, Galashiels. 18/00398/FUL. 18/00020/RREF.</b>	
	(a) <b>Notice of Review</b>	(Pages 61 - 68)

	(b) <b>Decision Notice</b>	(Pages 69 - 70)	
	(c) <b>Officer's Report</b>	(Pages 71 - 76)	
	(d) <b>Papers referred to in Officer's Report</b>	(Pages 77 - 92)	
	(e) <b>Consultations</b>	(Pages 93 - 100)	
	(f) <b>List of Policies</b>	(Pages 101 - 106)	
6.	<b>Consider request for review of refusal of application for change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration at 37 Bank Street, Galashiels. 18/00764/FUL. 18/00018/RREF.</b>		
	Copies of the following papers attached:-		
	(a) <b>Notice of Review</b>	(Pages 107 - 118)	
	(b) <b>Decision Notice</b>	(Pages 119 - 120)	
	(c) <b>Officer's Report</b>	(Pages 121 - 126)	
	(d) <b>Papers referred to in Officer's Report</b>	(Pages 127 - 172)	
	(e) <b>Consultations</b>	(Pages 173 - 178)	
	(f) <b>List of Policies</b>	(Pages 179 - 186)	
7.	<b>Any Other Items Previously Circulated</b>		
8.	<b>Any Other Items which the Chairman Decides are Urgent</b>		

## 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.

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**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

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

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R G L I C E N C E A R C H I T E C T

HILLEND CLIFTONHILL EDNAM KELSO TD5 7QE 01573225070 07891690639 [raygarch@icloud.com](mailto:raygarch@icloud.com)

10 07 2018

RECEIVED  
17 JUL 2018

HEAD OF CORPORATE ADMINISTRATION  
SCOTTISH BORDERS COUNCIL  
REGIONAL HEADQUARTERS  
NEWTOWN ST BOSWELLS  
TD6 0SA

Dear Sirs

NOTICE OF REVIEW PLANNING APPLICATION NO 18/00270/PPP

I enclose a Notice of Review in connection with the Planning Application no 18/00270/PPP together with enclosures.

Please let me know if you require any further information.

Yours faithfully



R G LICENCE

### NOTICE OF REVIEW

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

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

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

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

Use **BLOCK CAPITALS** if completing in manuscript

#### Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

#### Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

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

\* Do you agree to correspondence regarding your review being sent by e-mail? Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application  Date of decision (if any)



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

### Nature of application

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

### Reasons for seeking review

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

### Review procedure

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

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

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

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

### Site inspection

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

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

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

**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.

**POLICY HD2 OF THE LOCAL DEVELOPMENT PLAN**

The first reasons given for refusal was that the proposal would be contrary to Policy HD2 of the local development plan.

This reason is refuted on the grounds that the location of the proposed house is within the garden ground of Langton Birches which is bounded by a mature beech hedge and part of the small local housing group. The definition of a "housing group" according to the Policy specifically includes the garden boundaries of the houses in the group.

This proposed development would therefore form part of the existing housing group as the site is already part of the group by definition.

The refusal notice also refers to the proposed development as not reflecting the character of the building group and leading to ribbon development along a public road.

This reason for refusal is also refuted as the existing building group consists of dwellings constructed on each side of a public road which is precisely what the proposed house would be. The proposal simply follows the existing pattern of development.

**POLICIES HD2 AND PMD2**

The second reason for refusal concerns the proposed new entrance from the public road.

The Department of Roads has commented that the proposed layby which would allow shared access to the existing house and the new house exceeds the recommended length for a standard layby. The officer has also stated that if the layby could be reduced in length to 30 metres that the objection would be removed. An amended plan has been prepared showing how this could be achieved. This plan is attached and should form part of this review.

**DEPT OF ROADS APPROVAL ATTACHED**

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.

DRAWING NO CFPP02B

SUPPORTING STATEMENT FROM THE PLANNING APPLICATION

EMAIL FROM DEPT OF ROADS OFFICER  
APPROVING AMENDED ENTRANCE LAYBY

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 Signature]

Date

10 07 2018

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



# RE: PLANNING IN PRINCIPLE APPLICATION LANGTON BIRCHES DUNS REF 18/00270/PPP

July 12, 2018 at 4:07 AM

From "Patterson, Keith"

Ray

I can confirm the amended plan is acceptable in principle.

Keith

---

**From:** Ray Licence [mailto:raygarch@icloud.com]

**Sent:** 04 July 2018 10:16

**To:** Patterson, Keith

**Subject:** PLANNING IN PRINCIPLE APPLICATION LANGTON BIRCHES DUNS REF 18/00270/PPP

Keith

I have read your comments on the above application and amended my drawing to show a layby 30 m long with a combined access for the existing house and the proposed new house.

I would be grateful if you could confirm that this will be acceptable or add any comments you might have and I will amend the drawing again.

many thanks

Ray Licence

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## PLANNING PERMISSION IN PRINCIPAL APPLICATION

### ERECTION OF DWELLING HOUSE IN GARDEN AREA OF LANGTON BIRCHES DUNS

## SUPPORTING STATEMENT

#### 1.00 BACKGROUND

This statement is submitted in support of an application for planning consent in principal for a new dwelling house in the garden area of an established dwelling house at Langton Birches Duns.

A previous application submitted in 2017 REF 17/01145/PPP was refused consent and this new application has taken into account the objections raised and comments made in the planning officers Part 3 report.

#### 2.00 SUPPORTING STATEMENT

The following supporting statement lists comments on all matters raised in the objections to the previous application and should be read in conjunction with the associated drawings and photographs listed in the appendix

##### 2.01 GENERAL

Mrs Fleming has lived in Langton Birches since its construction nearly thirtyfive years ago and now that her family has departed wishes to move to smaller more suitable accommodation. The garden area at Langton Birches is extensive and the group of houses, of which Langton Birches forms a part, is a well established local housing group in the Borders countryside.

The existing housing group is considered as a group of houses in the countryside including gardens and boundary planting, note the group boundary shown on drawing no CFPP01 Mrs Fleming is a well established and respected local resident with interests in the local Church and Healthcare and wishes to remain as close to home as possible.

Her existing house was originally designed to include a large garden area to the west to provide for future needs and that time has now arrived. My client's current wishes are for a smaller house with a minimal garden area and has the advantage that the proposed garden area and boundary planting is already mature and established.

##### 2.02 THE SITE

The attached drawing ref nos CFPP01 and CFPP02B show the location of the site and the site plan with the existing dwelling, Langton Birches to the east boundary.

The site is bounded to the north by Crimson Hill a quiet little used country road linking Duns to Gavinton and the proposed site boundary includes part of the existing garden ground to Langton Birches.

The resulting site occupied by the existing house would have a road frontage of 48.5 M with sufficient parking for two cars and an ample secluded garden area.



The proposed site for the new dwelling would measure 113.58 M along the road frontage and 16 metres wide at its widest point.

Contrary to comments made in the planning officer's report on the previous application there is ample free area within the site boundary and established shrubs for the siting of a small house to suit my client's needs and for the necessary access road, parking and turning area for vehicles. The remaining site area will provide ample garden space suitable for the size of dwelling to be constructed.

Sufficient site analysis has been carried out to ensure that this can be accomplished and full details would obviously be included with a full planning application in due course.

### 2.03 ACCESS

The existing house is accessed directly from Crimson Hill and it is intended that this be retained.

As objections have been raised to the formation of a new access the site plan drawing no CFPP02 has been amended to show the proposed formation of a new layby incorporating the existing access to Langton Birches and the access to the proposed new house.

This should overcome the comments made by the community council and Department of Roads and help to improve local road conditions and services in the area.

The sight lines in each direction from the revised proposal will meet the Department of Roads requirements and are not restricted by the tree or hedge planting which are both set well back from the road verge.

### 2.04 ENVIRONMENT

The proposed site is bounded to the north along the roadside with a wide grass verge planted with a row of established trees and mature beech hedge which is maintained at 3.0 M high to provide screening from the northerly winds.

The extremities of the site to the east and west are screened with a mixture of mature trees and shrubs and the south boundary along the agricultural field has a slightly raised banking and fence with scattered trees and hedging, all well maintained.

The wide central part of the site has been maintained as a clear space for the location of the proposed house and would provide ample space for a house with garage and parking space for two cars.

The proposed site provides a secluded, sheltered location for a new dwelling which would have minor visual impact from the public roadway and the existing house.

The proposed house would benefit from protection from northerly winds and weather and benefit from the southerly aspect and heat gain from southerly facing roof areas and windows. The site would allow a new house to be designed and located to provide privacy and shelter for the occupant without affecting the privacy or access of the other properties in the local area, indeed the proposed house would be practically invisible from the public roadside and neighbouring properties.

The proposed site is currently part of the garden area of Langton Birches and the boundary trees and hedging to the site form a natural western boundary to the local housing group.

### 2.05 SERVICES

Services immediately available at the site include;

Public water supply

Scottish power electricity supply

British Telecom telephone and internet service

Surface water drainage will be installed on site to SUDS principles

Foul water drainage will be provided on site with a sewage treatment plant and soakaway system.

### 3.00 PLANNING POLICY

#### 3.01

The following comments are made with reference to the current SCOTTISH BORDERS LOCAL PLAN, Supplementary Planning Guidance on New Housing in the Borders Countryside.

The comments are made to show how this application is supported by and complies with the Supplementary Planning Guidance notes and reference will be made to these in the text.

#### 3.02

Scottish Planning policy 3 para 1.1 advises that the Planning Authority should promote the efficient use of land and buildings and direct the majority of new developments towards sites within existing settlements to make use of existing infrastructure and service capacity and reduce energy consumption while ensuring the creation of quality residential environments.

This site will meet all of these requirements.

#### 3.03

Scottish Planning Policy 15 advances policy in respect of small scale rural housing developments including clusters and groups in close proximity to settlements, replacement housing and plots on which to build individually designed houses.

This site meets this requirement.

#### 3.04

Planning advice note 72 Housing in the Countryside.

The purpose of the advice note is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not however be seen as a constraint on Architects wishing to pursue innovative and carefully considered contemporary design.

This application is one such opportunity and any design on this site would be a very carefully considered design to comply with this policy.

#### 3.05

### 2 HOUSING IN THE COUNTRYSIDE

This note lists standard criteria which should be met by any proposed new housing development namely;

No adverse effect on the viability of a farming unit.

Satisfactory access and other road requirements

Satisfactory public or private water supply and drainage facilities.

No adverse effect on countryside amenity, landscape or nature conservation.

No adverse impact on ancient monuments, archaeological sites or on gardens or designed landscapes in the Inventory of Gardens and Designed Landscapes in Scotland.

Appropriate siting, design and materials in accordance with the relevant local plan policies.

The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.

All of these criteria would be met by the development of this site.



## 2b BUILDING GROUPS

The note 2.b.1 states that a building group will be allowed to expand by 100% and that a group will normally consist of at least three dwelling units and that a group will be identifiable by a sense of place which will be contributed to by natural boundaries such as water courses, trees or enclosing landform and man made boundaries such as existing buildings, roads, plantations or means of enclosure.

The proposed site meets all of these requirements in that the existing building group comprises five dwellings and the sense of place is established by the existing building and their natural and man made field and garden boundaries.

The note also emphasizes that any new development should not adversely impact on existing properties and householders.

It has already been shown that the development of this site will have limited visual impact on any of the existing dwellings and that the amenity of the existing householders would not be affected adversely.

## 4.00 COMMENTS

### 4.01

This application for planning consent in principle complies with all aspects of the Supplementary Planning Guidance notes with regard to location, services and other indicators given in the notes.

The siting of the proposed house and amended access point is noted on the site development plan.

### 4.02

With reference to the planning officer, Andrew Evans, recommendations in his report on the previous application the following comments are made in italics

#### SITE HISTORY

##### Paragraph 2

The proposed dwelling would not reflect or respect the character of the houses within the existing building group.

*The existing building group is formed by houses built along the roadside and of mixed Architectural character and design. The proposed house would add a balance to the current group by adding a house to the south side of the road adjacent to Langton Birches.*

##### Paragraph 3

The proposal would constitute an unacceptable over-development of the plot and that the dwelling house could not be satisfactorily located on the application site.

*We have carried out sufficient studies to ensure that a house of the size required by my client could be accommodated on the site complete with associated access road, parking and turning areas.*

*Complete details will be provided with a full planning application in due course.*



#### 4.03 POLICY PRINCIPLE/BUILDING GROUP

We note that it is agreed that numerically another dwelling could be accommodated within the building group and note also the comment that most of the houses forming the group are on the north side of the road. This group now needs a balance by the addition of a house on the south side adjacent to Langton Birches and we would also note that under the terms of the council's definition of a housing group that garden areas and boundary planting are included in the group.

*This site including boundary planting to the garden area is part of the group, not remote from it and the existing group would benefit from the addition of another dwelling in this location.*

#### 5.00 CONCLUSION

The recommendation for refusal of the previous application was based on two statements;

1 That the proposed development would not form part of or be well related to an existing housing group, would not reflect the character of the building group and would lead to ribbon development along a public road.

*We believe we have shown that the building group includes the existing dwellings and their garden areas and boundary treatment, the proposed dwelling would be sited well within this established group boundary and as the houses forming the group are built in a row alongside the roadway the addition of a further dwelling simply adds to the established group in a similar way and totally in character with the established group pattern.*

*The definition of "ribbon development" relates to the development of multiple dwellings on each side of a road on greenfield sites and does simply not apply in this instance.*

2 That the development would result in a proliferation of accesses and represent a further access onto an unrestricted and unlit section of public road to the detriment of road safety

*We have adjusted the access to the proposed house by adding a new layby to incorporate the access points to Langton Birches and the proposed house. Although this narrow road is unrestricted the vehicle speeds in the area are generally low and the addition of one other small dwelling house with a safe entrance and exit with adequate sight lines will not make an appreciable difference to road safety in the local area.*

#### 6.00 APPENDIX

##### 6.01

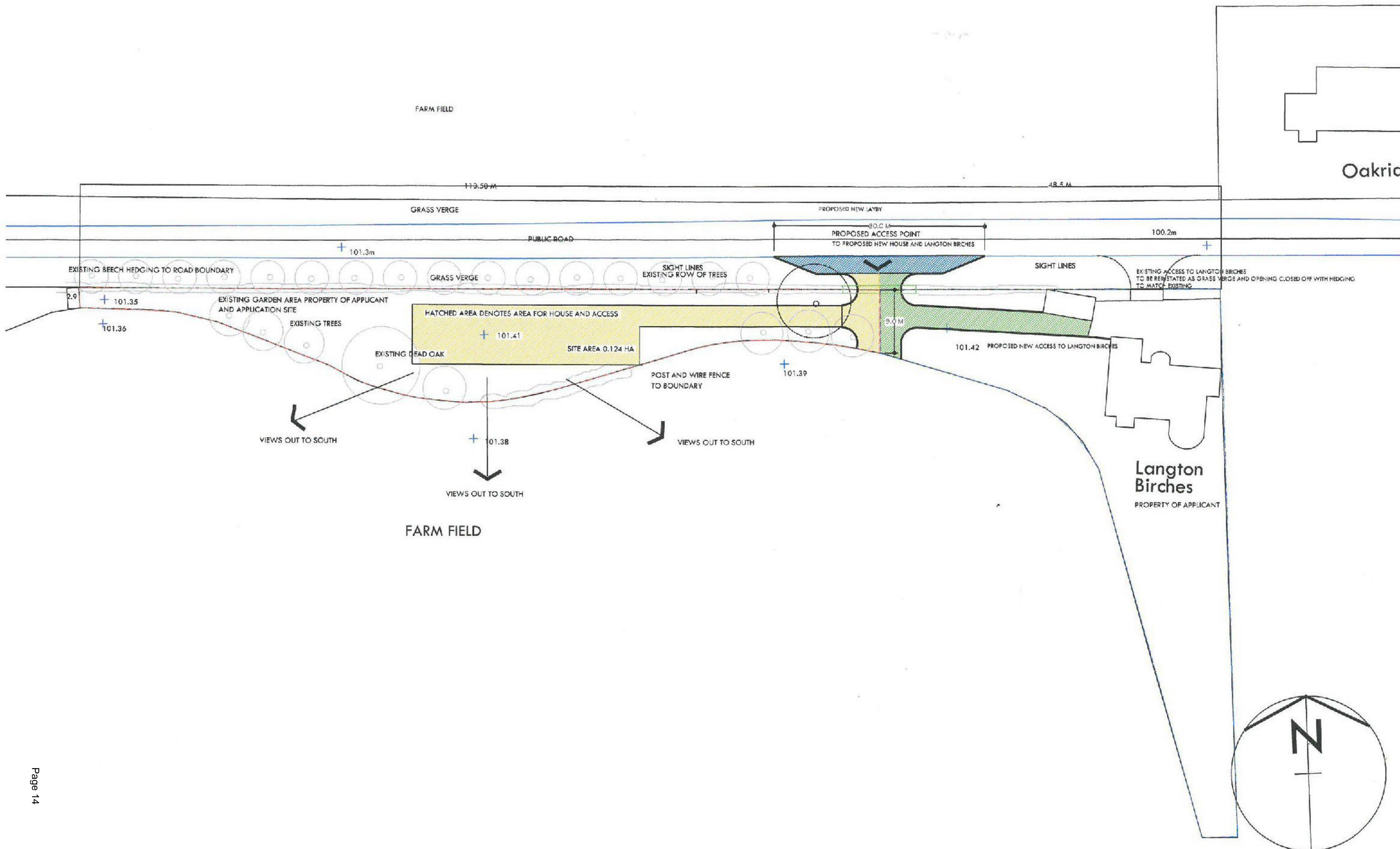
This statement should be read in conjunction with the drawing nos CFPP01 and CFPP02 which are attached and with reference to the Scottish Borders Local Plan, Supplementary Planning Guidance on New Housing in the Borders Countryside December 2008.

Ray Licence

R G LICENCE ARCHITECT

21 02 2018





8 02 07 2018 ENTRANCE AND LAYBY AMENDED

CFPP02 B	
R G I L L E N C E ARCHITECT	
HILLEND CLIFTONHILL EDNAM KILSO TDS 70E	
TEL 01573 225075 MOB 07801690655 EMAIL raygarch@cloud.com	
CLIENT CLARE FLEMING	
PROJECT PROPOSED SITE FOR NEW DWELLING HOUSE AT LANGTON BIRCHES DUNS	
TITLE PROPOSED SITE LAYOUT PLAN	
SCALE 1:250 @ A1	
DATE 12 02 2018	

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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 : 18/00270/PPP

To : Mrs Clare Fleming per R G Licence Architect Hillend Ednam Kelso Scottish Borders TD5 7QE

With reference to your application validated on **13th March 2018** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse with associated access road, parking area and combined entrance/layby**

**At : Land West Of Langton Birches Duns Scottish Borders**

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

Dated 18th April 2018  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA

Signed

.....  
Depute Chief Planning Officer

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



**APPLICATION REFERENCE : 18/00270/PPP****Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
CFPP01	Location Plan	Refused
CFPP02	Site Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in an unacceptable access arrangement with the public road to the detriment of road safety.

**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.



**SCOTTISH BORDERS COUNCIL****APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO  
CHIEF PLANNING OFFICER****PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 18/00270/PPP

**APPLICANT :** Mrs Clare Fleming

**AGENT :** R G Licence Architect

**DEVELOPMENT :** Erection of dwellinghouse with associated access road, parking area and combined entrance/layby

**LOCATION:** Land West Of Langton Birches  
Duns  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:** No Reason

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
CFPP01	Location Plan	Refused
CFPP02	Site Plan	Refused
CFPP01	Location Plan	Approved
CFPP02	Site Plan	Approved

**NUMBER OF REPRESENTATIONS: 0****SUMMARY OF REPRESENTATIONS:****CONSULTATIONS:**

**ROADS PLANNING SERVICE:** The applicants have attempted to take on board the previous comments raised by this Section in terms of serving both the existing property and the proposed site with a shared service lay-by. Whilst in theory this is acceptable, the current proposal stretches the service layby to approximately 60m in length. A standard service lay-by to serve two accesses is 24m in length including tapers. Whilst there is some leeway in terms of modifying the standard specification to fit a particular situation, the current proposal takes this to an unacceptable extent. I shall require an amended drawing to be submitted showing the service lay-by reduced in size by at least half before I am able to support this proposal. The applicant may wish to consider closing the existing access to Langton Birches and relocate this to a new access serving both properties at the proposed location shown on the location plan submitted.

**COMMUNITY COUNCIL:** No response received. Consultation expired.

I note that in relation to previous application (17/01145/PPP) on this site the Community Council objected to the application due to the impact of the development on the road between Langton Birches and Middlewood Farm, the condition and lack of drainage of the road, the poor visibility at the proposed access, the impact of construction traffic and lack of parking for delivery vehicles and visitors to the property. The full response can be viewed on Public Access.

EDUCATION & LIFELONG LEARNING: No response received. Consultation expired.

I note that in relation to previous application (17/01145/PPP) on this site they advised the proposed development is within the catchment area for Duns Primary School and Eyemouth High School. A contribution of £4,639 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £8,068.

SCOTTISH WATER: No response received. Consultation expired

#### PUBLICITY AND REPRESENTATIONS

The application was publicised by means of the placing of an advert in the Berwickshire News, and via a public notice on the national website "Tell Me Scotland". No objections or representations were received to the proposals.

#### PLANNING CONSIDERATIONS AND POLICIES:

##### ADOPTED SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN (2016)

PMD1: Sustainability  
PMD2: Quality Standards  
ED10: Protection of Agricultural Land and Carbon Rich Soils  
HD2: Housing in the Countryside  
HD3: Protection of Residential Amenity  
EP3: Local Biodiversity  
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 (2010)
- Development Contributions (Revised 2018)
- New Housing in the Borders Countryside (2008)
- Trees and Development (2008)
- Householder Development (incorporating Privacy and Sunlight Guide) (2006)

**Recommendation by** - Andrew Evans (Planning Officer) on 18th April 2018

#### SITE

The site is located at Langton Birches to the south of Duns. The application site is an area of land in the garden ground of the existing dwelling at Langton Birches, Duns. The existing house is located to the east of the application site. The house has a mature garden ground. To the south of the site is agricultural land. To the north is the minor road to Gavinton. The site is level.

#### PROPOSED DEVELOPMENT

The application seeks Planning Permission in Principle for the erection of a single detached dwellinghouse. Indicative drawings were submitted with the application. These show a dwelling positioned west of the existing house at Langton Birches, in garden ground. Adjustments to the access proposals have been made in comparison to the previous, refused, application on the site (17/01145/PPP).

## POLICY PRINCIPLE

In terms of the principle of development the application is required to be assessed principally in terms of policy HD2 of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance on new housing in the countryside. This policy allows for new housing associated with existing building groups, conversion of suitable buildings, and in cases where economic justification is present.

## PLANNING HISTORY

Planning permission has previously been refused in this site on multiple occasions as follows:

17/01145/PPP: The erection of a single dwellinghouse on the site was refused planning permission on 2nd October 2017 for the following reasons:

1. The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
2. The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in a proliferation of accesses, and represent a further access onto an unrestricted and unlit section of public road to the detriment of Road Safety.

12/00343/FUL: The erection of a single dwelling on the same site was refused planning permission on 11th May 2012 and the subsequent appeal was dismissed. The Local Review Body varied the decision of the Appointed Officer and refused planning permission for the following reasons:

1. The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located outwith the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
2. The proposed dwelling would be contrary to Policy G1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.
3. The proposed development would be contrary to Policy G1 of the Consolidated Local Plan in that the proposal would constitute an unacceptable over-development of the plot and that the dwellinghouse could not be satisfactorily accommodated on the application site.

This third reason was added in by the Local Review Body and was not part of the original officer's delegated decision.

13/01025/FUL: The application for the erection of a single dwelling on the same site was withdrawn.

There has been no major change in the Housing in the Countryside policies and guidance of the Council since the determination of the previous 2017 application on the site.

## SUPPORTING STATEMENT

The application is accompanied by a six page Supporting Statement, setting out the applicant's and agent's position, and seeking to provide justification why this site should be approved. It can be viewed in full on the Public Access website.

## POLICY PRINCIPLE / BUILDING GROUP

My previous 2017 consideration of this site concluded:

"An existing building group is located to the north east of the site. Numerically, the group has capacity to accommodate a dwelling within the current plan period. However, in terms of the position of the site relative to the group, there is a clear conflict with adopted policy; my view is that the group itself is on the other side of the minor road, and also offset from the application site. The application site is remote from the building group, and does not form part of it. "

This remains the case. A building group is present nearby, but this site is not well related to it, and a house on this site is not acceptable, when considered against the adopted planning policy on Housing in the Countryside.

The agent's response in the Supporting Statement in respect of the current application to the view (of myself and the LRB in relation to the earlier application) that the proposal constitutes ribbon development is " The definition of "ribbon development" relates to the development of multiple dwellings on each side of a road on greenfield sites and does simply not apply in this instance." This does not bear up to scrutiny. Ribbon development is defined as follows:

"The building of houses along a main road, especially one leading out of a town or city." - Oxford English Dictionary.

"Ribbon development is a line of buildings, served by individual accesses, extending along a road, without accompanying development of the land to the rear." (Northern Ireland planning policy).

"Ribbon Development - a narrow bank of development extending along one or both sides of a road." Shetland Islands Council Planning.

Scottish Planning Circular No. 24/1985 Development in the Countryside and Green Belts sets out that ribbon development should be avoided.

Fundamentally however, the application requires to be assessed against policy HD2 of the Local Development Plan on Housing in the Countryside.

#### CHANGES RELATIVE TO PREVIOUS APPLICATION

Since the refusal of the previous application on the site, the access arrangements have been revised. One of the previous reasons for refusal was in relation to the proliferation of accesses. The agent attempts to address this by revising the proposals to show a combined access and layby arrangement. However the details of the layby are unacceptable to the RPS engineer. This is discussed further below.

#### BUILDING GROUP / CONSIDERATION OF PRINCIPLE AND PLACEMAKING

The Local Review Body in 2012 reached a view that there was a building group at Langton Birches. Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and Langton Birches itself and that the locus had a distinct sense of place. However, they were unclear as to the precise boundaries or extent of the group and the relationship of the proposed house to the existing properties. Members were also concerned about the capacity of the site itself to accommodate the proposed development. The Planning Authority has previously been of the view that the applicant's existing dwelling, Langton Birches, forms part of a wider building group consisting of 5 existing dwellings, 4 of which are located on the north side of the public road.

I note the contention of the agent in the Supporting Statement (Section 4.03) that:

"Most of the houses forming the group are on the north side of the road. This group now needs a balance by the addition of a house on the south side adjacent to Langton Birches and we would also note that under the terms of the Council's definition of a housing group that garden areas and boundary planting are included in the group."

Whilst there is a building group present at Langton Birches, this current planning application site does not form part of it, and is not well related to it. The notion of "Balance" is an invention of the agent presented in this statement, and is not part of the actual policy wording of the policy HD2 A of the LDP. The proposed site of the new dwelling would not respect or reflect the character and amenity of the group as it would be



located outwith the area contained by the sense of place and would result in the loss of existing trees and shrubs which contribute to the identified sense of place. The garden woodland within which the site is positioned serves a landscaping function to the edge of the building group. There is considered no justification for a dwelling on this site. Concerns over ribbon development remain.

#### PRIME QUALITY AGRICULTURAL LAND

Policy ED10: Protection of Agricultural Land and Carbon Rich Soils is notionally applicable to the site. This aims to protect prime quality agricultural land from development. Despite being identified as PQAL, it was apparent at the time of my site visit, that the application site is now completely positioned within the maturing garden ground and planting, and is not agricultural in nature. I have no concerns in terms of any conflict with policy EP10 of the LDP.

#### TREE, WOODLAND AND HEDGEROWS

Existing trees, woodland and hedgerows are protected by policy EP13 of the LDP on Trees, Woodlands and Hedgerows. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, which are both relevant to these proposals. The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction. In the case of these proposals, it would have been possible for a house to be suitably positioned within the existing trees.

I am satisfied that the proposed development could comply with the requirements of policy EP13 and the adopted SPG on Trees and Development. However, had the application been acceptable in principle, I would have been minded to consider imposition of conditions to protect trees to be retained, and identify which trees can be removed.

#### AMENITY

Neighbouring amenity is afforded protection by policy HD3 of the Scottish Borders Local Development Plan 2016. This is enhanced upon by privacy and amenity standards set out in the adopted Supplementary Planning Guidance on Householder Development. In the case of these proposals there are no significant amenity concerns, as given the poor spatial relationship of the site to the remainder of the building group, there is as a result, no overlooking or poor amenity relationship arising.

#### ROAD SAFETY

Road safety is a material planning consideration. The Roads Planning Service was consulted on the application. The RPS engineer advises that the proposed service layby is unacceptable due to its excessive length. He would consider a revised proposal. However I am not prepared to enter into negotiation on a site which is unacceptable in principle. The road safety issue may be capable of resolution. The principle of development on this site is unacceptable. I would include road safety in the reasons for refusal of this application, but note that a suitable detail for the access layby could be achieved, with a reduction in the shared access layby being possible, though not yet demonstrated.

#### WATER SUPPLY AND DRAINAGE

Policy IS9 of the Local Development Plan on Waste Water Treatment Standards and Sustainable Urban Drainage is relevant to this application. This requires development proposals to make satisfactory arrangements for dealing with foul and surface water drainage. SUDS (Sustainable Urban Drainage Systems) principles should be incorporated in the development. The site is located in a rural area. The submitted Supporting Statement specifies that the proposed means of water supply is via public water supply. It further advises that surface water drainage will be installed on site to SUDS principles. Foul water drainage will be provided on site with a sewage treatment plant and soakaway. Standard planning conditions would be appropriate to cover the means of water supply and foul and surface water drainage to serve the site.

## DEVELOPMENT CONTRIBUTIONS

The Council has adopted supplementary planning guidance and planning policy covering development contributions. In this case contributions assessment is as follows:

### - Education

I note that in relation to previous application (17/01145/PPP) on this site the Education and Lifelong Learning requested a contribution of £4,639 for Duns Primary School and £3,428 for Eyemouth High School, making a total contribution of £8,068.

### - Affordable Housing

As only a single dwelling is proposed in this application, no affordable housing contribution would be due.

## REASON FOR DECISION :

The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would not relate sympathetically to an existing building group and would lead to ribbon development along a public road.

### **Recommendation:** Refused

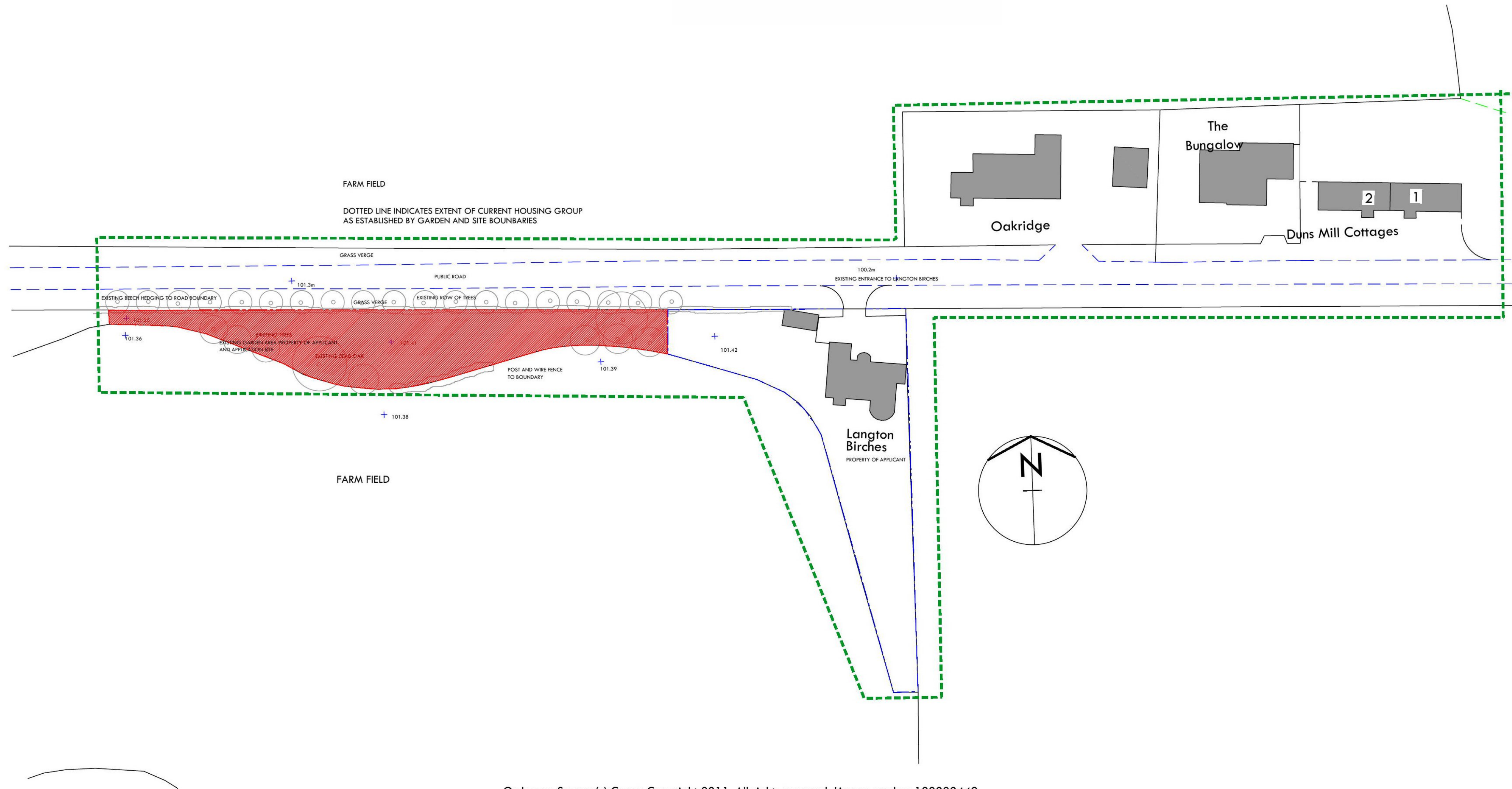
- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in an unacceptable access arrangement with the public road to the detriment of road safety.

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

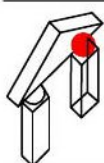
Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

**REFUSED**

subject to the  
requirements of the  
associated Decision  
Notice



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**CFPP01**

R G LICENCE ARCHITECT	
HILLEND CLIFTONHILL EDNAM KELSO TD5 7QE	
TEL 01573 225070 MOB 07891690639 EMAIL raygardh@icloud.com	
CLIENT	CLARE FLEMING
PROJECT	PROPOSED SITE FOR NEW DWELLING HOUSE AT LANGTON BIRCHES DUNS
TITLE LOCATION PLAN	
SCALE 1:500@A1	
DATE 12.02.2018	



Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

**REFUSED**

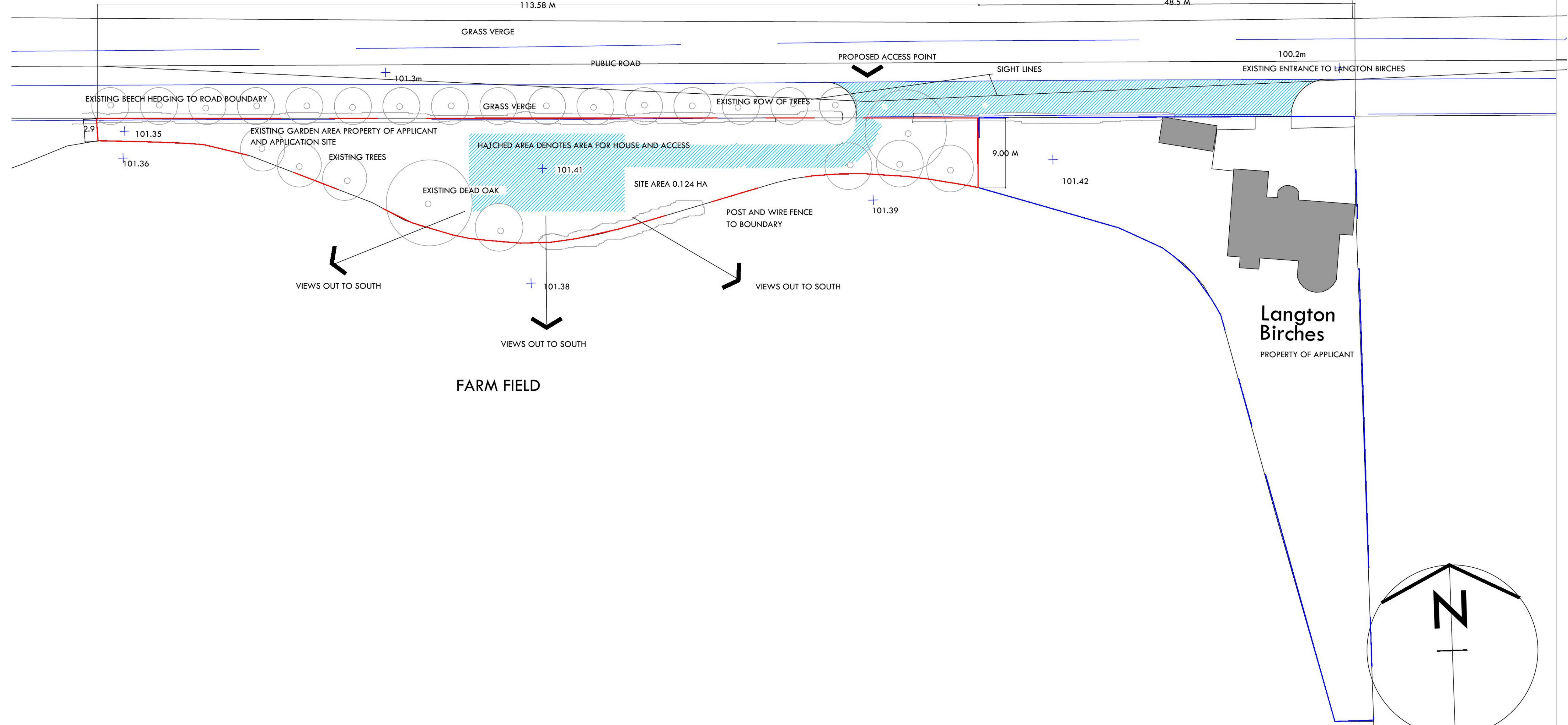
subject to the  
requirements of the  
associated Decision  
Notice

18/00270/PPP

18.04.18

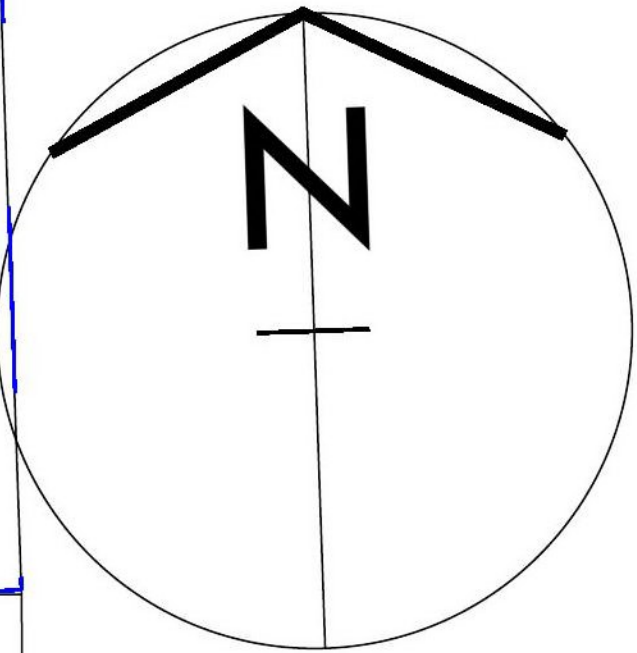
FARM FIELD

Oakridge

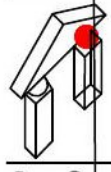


Langton  
Birches

PROPERTY OF APPLICANT



CFPP02



R G LICENCE ARCHITECT
HILLEND CLIFTONHILL EDNAM KELSO TD5 7QE
TEL 01573 225070 MOB 07891690639 EMAIL raygarch@icloud.com
CLIENT CLARE FLEMING
PROJECT PROPOSED SITE FOR NEW DWELLING HOUSE AT LANGTON BIRCHES DUNS
TITLE PROPOSED SITE LAYOUT PLAN
SCALE 1:250 @ A1
DATE 12 02 2018

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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 100086714-001

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)

ERECTION OF DWELLING HOUSE WITH ASSOCIATED ACCESS ROAD, PARKING AREA, COMBINED ENTRANCE AND LAYBY

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:	R G LICENCE ARCHITECT		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	RAY	Building Name:	HILLEND
Last Name: *	LICENCE	Building Number:	
Telephone Number: *	01573225070	Address 1 (Street): *	CLIFTONHILL
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	KELSO
Fax Number:		Country: *	UK
		Postcode: *	TD5 7QE
Email Address: *	raygarch@icloud.com		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	LAND WEST OF LANGTON
First Name: *	CLARE	Building Number:	
Last Name: *	FLEMING	Address 1 (Street): *	CRIMSON HILL
Company/Organisation:		Address 2:	
Telephone Number: *		Town/City: *	DUNS
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	TD11 3HT
Fax Number:			
Email Address: *	raygarch@icloud.com		

## 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

Northings

Easting

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Site Area

Please state the site area:

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)

## 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.

## Water Supply and Drainage Arrangements

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

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- ☐ Yes – connecting to public drainage network  
☒ No – proposing to make private drainage arrangements  
☐ Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? \*

- ☒ New/Altered septic tank.  
☐ Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).  
☐ Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? \*

- ☒ Discharge to land via soakaway.  
☐ Discharge to watercourse(s) (including partial soakaway).  
☐ Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: \*

DETAILS OF THE ENLARGEMENT OF THE EXISTING TREATMENT PLAN WILL BE SUPPLIED WHEN A FULL PLANNING APPLICATION IS MADE

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

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.

## All Types of Non Housing Development – Proposed New Floorspace

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

☐ Yes ☒ No

## 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: RAY LICENCE

On behalf of: Mrs CLARE FLEMING

Date: 07/03/2018

☒ 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)

SUPPORTING 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: Mr RAY LICENCE

Declaration Date: 07/03/2018



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

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations  
2008**

**Application for Planning Permission**

**Reference: 12/00343/FUL**

**To: Mrs Clare Fleming per R G Licence Architect Hillend Ednam Kelso Scottish Borders  
TD5 7QE**

With reference to your application validated on **14th March 2012** for planning permission under the  
Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal: Erection of dwellinghouse with integral garage**

**At: Garden Ground Of Langton Birches Duns Scottish Borders**

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

**Dated 11th May 2012  
Planning and Economic Development  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**

  
.....  
**Head of Planning and Regulatory Services**



**APPLICATION REFERENCE: 12/00343/FUL**

**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
FLE PL01	Location Plan	Refused
FLE PL02	Site Plan	Refused
FLE PL03	Site Plan	Refused
FLE PL04	Floor Plans	Refused
FLE PL05	Floor Plans	Refused
FLE PL06	Sections	Refused
FLE PL07	Elevations	Refused
FLE PL08	Elevations	Refused
STATEMENT	Report	Refused

**REASON FOR REFUSAL**

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy D1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.

**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.

**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 :** 12/00343/FUL

**APPLICANT :** Mrs Clare Fleming

**AGENT :** R G Licence Architect

**DEVELOPMENT :** Erection of dwellinghouse with integral garage

**LOCATION:** Garden Ground Of Langton Birches  
Duns  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
FLE PL01	Location Plan	Refused
FLE PL02	Site Plan	Refused
FLE PL03	Site Plan	Refused
FLE PL04	Floor Plans	Refused
FLE PL05	Floor Plans	Refused
FLE PL06	Sections	Refused
FLE PL07	Elevations	Refused
FLE PL08	Elevations	Refused
STATEMENT	Report	Refused

**NUMBER OF REPRESENTATIONS: 1**

**SUMMARY OF REPRESENTATIONS:**

Roads Planning Service: There are concerns that the proposed dwelling would stretch development away from the main group of buildings. Encouraging development in this fashion could lead to a proliferation of accesses along an unlit and restricted section of public road, without the appropriate infrastructure in place to serve these properties. The internal layout also causes concern, as it does not allow for parking and turning of two vehicles, not including garages, within the curtilage of the plot. Failure to provide this facility would result in vehicles reversing onto the public road, which is unacceptable at this location.

In this particular case the access is essentially a shared access with Langton Birches (shared by means of a service lay-by), therefore it can be considered that there is no "new" accesses onto this section of road as a result of this development. Therefore, on balance, the development is acceptable on the proviso that the applicant can demonstrate parking and turning, as detailed above, can be provided within the curtilage of the plot. In addition, the service lay-by must be constructed as per standard detail (DC-2). It should be noted that only contractors on the Council's approved list (DC-8) may work within the public road boundary.

CC: No objections.

There are no third party letters of representation.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Consolidated Scottish Borders Local Plan 2011

Policy G1  
Policy NE4  
Policy D2  
Policy D4  
Policy Inf4

Consolidated Scottish Borders Structure Plan 2001-2018

Policy N20  
Policy H7  
Policy I11  
Policy I19

**Recommendation by** - Barry Fotheringham (Principal Planning Officer) on 9th May 2012

Langton Birches is a detached dwellinghouse located within mature private gardens on the south side of the minor C class road between the A6112 south of Duns and the village of Gavinton. It is located opposite the property known as Oakridge and forms part of a wider building group consisting of 5 existing dwellings, 4 of which are located on the north side of the public road.

The application site is an area of well established garden ground to the west of the applicants current dwelling consisting of high density self seeded trees. It is defined by a mature beech hedge and semi mature avenue of trees on the north boundary, a post and wire fence and mature hedge on the south boundary beyond which are agricultural fields currently used for grazing. The application site is narrow and measures 0.0833ha.

It is proposed to erect a 2 bedroom, 2 storey dwellinghouse on the widest part of the site approximately 55m west of the applicants existing property. The design ethos is of a contemporary, low carbon dwelling arranged over 2 floors. It would incorporate an integral garage on the ground floor with open plan living space at first floor level. The dwelling would have a series of shallow roof pitches which would be finished with dark grey coloured zinc panels. The south elevation would be predominantly glazed with a covered decking area to the west end and would be finished with vertical timber lining. The north elevation would essentially be a blank elevation with limited window openings and air to air heat exchanger vents at first floor level. Access to the property would be via an extended private service lay-by incorporating the existing access serving Langton Birches.

It is accepted that a building group does exist at this location, consisting of 5 dwelling units contained within a distinct sense of place which is contributed to by mature trees and woodland to the east of the group and that the existing self seeded copse, hedgerow and avenue to the west. The principal policy constraint in determining this application is Policy D2 of the Consolidated Local Plan which promotes appropriate rural housing development in village locations, on sites associated with existing groups, and in dispersed communities in the Southern Borders Housing market area. Housing of up to 2 new dwellings or 30% increase of the building group may be approved provided that the planning authority is satisfied that the site is well related to an existing group of at least 3 dwellings. There clearly is the presence of a building group at this location but it is felt that the site is not well related to this established group of buildings.

In assessing the suitability of any particular group to accommodate new houses, a number of criteria must be taken into account. These would include but are not limited to the following:

- The scale and siting of new development should reflect and respect the character and amenity of the existing group, and the individual houses within the group;
- New development should be limited to the area contained by that sense of place;

- Any new build should be located within a reasonable distance of the existing properties within the building group, the distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group;
- Sites should not normally break into a previously undeveloped field or require the removal of mature trees in good condition;
- Existing groups may in themselves be complete, such as terraces of farm cottages and may not be suitable for further additions;
- Extensions of ribbon development along public roads will not normally be permitted.

It is considered that the scale of the proposed development is acceptable in that it would introduce one dwelling to the group where a maximum number of 2 new dwellings may be appropriate in general policy terms. The additions to building group threshold would not be exceeded. However, the proposed site of the new dwelling would not respect or reflect the character and amenity of the group as it would be located out with the area contained by the sense of place and would result in the loss of existing trees and shrubs which contribute to the identified sense of place. The existing dwellings form a relatively tight group, with the exception of Langton Birches, but the proposed dwelling would be located 55m west of this property and would not follow the general pattern of development or spacing between existing properties. This would lead to ribbon development along the public road to the detriment of the character and amenity of the existing group and a form of development not supported by the Roads Planning Service.

As mentioned earlier in this report, the proposed dwelling offers a modern or contemporary design approach which is aimed at reducing the development carbon footprint. A south facing aspect, large glazed openings and renewable energy technologies coupled with low carbon materials would in theory make the dwelling energy efficient and in accordance with renewable energy policies. However, the design of the proposed dwelling is not consistent with the character of the individual houses within the group which demonstrate traditional forms and materials. Whilst this is of lesser importance when compared to the principal of erecting a dwelling on this site the design of the proposed dwelling is not considered to be appropriate for this location.

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

The proposed erection of a dwellinghouse on this site would be contrary to development plan policies relating to new housing in the borders countryside in that the development would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road. In addition, the development would not comply with policies covering design and quality standards in that the dwelling would not be compatible with or respect the character of the dwellings in the building group.

#### **Recommendation: Refused**

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy D1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.

**“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**

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**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 2008**

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**LOCAL REVIEW REFERENCE:** 12/00035/RREF

**PLANNING APPLICATION REFERENCE:** 12/00343/FUL

**DEVELOPMENT PROPOSAL:** Erection of dwellinghouse with integral garage

**LOCATION:** Garden Ground of Langton Birches, Duns

**APPLICANT:** Mrs Clare Fleming

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**DECISION**

The Local Review Body varies the decision of the appointed officer and refuses planning permission for the following reason:

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located outwith the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy G1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.
3. The proposed development would be contrary to Policy G1 of the Consolidated Local Plan in that the proposal would constitute an unacceptable over-development of the plot and that the dwellinghouse could not be satisfactorily accommodated on the application site.

**DEVELOPMENT PROPOSAL**

The application is for the erection of dwellinghouse with integral garage on the garden ground of Langton Birches, Duns. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	FLE PL01
Site Plan	FLE PL02
Site Plan	FLE PL03
Floor Plans	FLE PL04
Floor Plans	FLE PL05
Sections	FLE PL06
Elevations	FLE PL07
Elevations	FLE PL08
Report	STATEMENT

## **PRELIMINARY MATTERS**

The application was presented to the Local Review Body at its meeting on 17<sup>th</sup> September 2012. After examining the review documentation, which included:

(a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling; (d) papers referred to in Report of Handling; (e) Correspondence from Consultees; and (f)) List of Policies, Members concluded that they did not have sufficient information to conclude the review and that further procedure was required in the form of a site visit. The site visit, which was unaccompanied, was held immediately and following its conclusion the Review Body reconvened at the Duns Area Office, Newtown Street, Duns to consider the case.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

## **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: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: N20, H7 and I11
- Local Plan Policies: G1, D2, H2, G5, INF4, and NE4

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Development Contributions 2011

After considering the slides of the site and the submitted site and location plans, the Review Body accepted that there was a building group at Langton Birches, as defined in Structure Plan Policy H7, Policy D2 of the Local Plan and in the approved Supplementary Planning Guidance. In coming to this conclusion, Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and

Langton Birches itself and that the locus had a distinct sense of place. However, they were unclear as to the precise boundaries or extent of the group and the relationship of the proposed house to the existing properties. Members were also concerned about the capacity of the proposed site itself to accommodate the proposed development. In the circumstances, they felt that it was necessary to conduct a site visit.

Members confirmed that the site visit had been useful in clarifying these questions. Following debate it was determined that the proposed development would be outwith and not well related to the building group and that it would represent ribbon development along the public road. Members considered that the tree belt to the west of Langton Birches formed a defined and defensible edge to the group and the insertion of a house into the woodland would diminish its effectiveness and attractiveness.

The Review Body noted that there was a mix of building styles within the group and that the proposed dwelling was of a contemporary and innovative design. Members complimented the applicant in proposing a house which sought to maximise energy efficiency but felt that the proposal would not reflect the character of the existing group and would be harmful to its appearance. The Review Body highlighted that it was not opposed, as such, to contemporary house design in rural building groups but were clear that any house should pay regard to the context in which it is being built and be compatible with the character of the neighbouring built form. In this instance, the Review Body did not consider that this objective of Policy G1 had been met successfully.

Members also determined that the proposed development would be overdevelopment of the site. The combination of the small size and unusual shape of the plot limited the ability to successfully accommodate the house, whilst providing useful garden ground, parking for two cars and turning facilities. The development would therefore be contrary to Policy G1 (2) of the Local Plan.

## **CONCLUSION**

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

### **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.....**  
Chairman of the Local Review Body

**Date:...**25 October 2012

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 17/01145/PPP****To : Mrs Clare Fleming per R G Licence Architect Hillend Ednam Kelso Scottish Borders TD5 7QE**

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 : Erection of dwellinghouse****At : Land West Of Langton Birches Duns Scottish Borders**

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

Dated 2nd October 2017  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA

Signed

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

**APPLICATION REFERENCE : 17/01145/PPP****Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
CF OP02	Site Plan	Refused
CF OP01	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in a proliferation of accesses, and represent a further access onto an unrestricted and unlit section of public road to the detriment of Road Safety.

**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.

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



**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 17/01145/PPP

**APPLICANT :** Mrs Clare Fleming

**AGENT :** R G Licence Architect

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land West Of Langton Birches  
Duns  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:** No Reason

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
CF OP02	Site Plan	Refused
CF OP01	Location Plan	Refused

**NUMBER OF REPRESENTATIONS:** 0  
**SUMMARY OF REPRESENTATIONS:**

**CONSULTATIONS:**

**EDUCATION AND LIFELONG LEARNING:** I refer to your request for Education's view on the impact of this proposed development, which is within the catchment area for Duns Primary School and Eyemouth High School. A contribution of £4,639 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £8,068.

**ROADS PLANNING SERVICE:** As nothing has changed since the last application on this site (13/01025/FUL), have no option but to repeat previous comments:

"The previous application (12/00343/FUL) for the same proposal raised some concerns given its location in relation to the rest of the building group. The main issue related to concerns over a proliferation of accesses and the lack of appropriate infrastructure. Nevertheless, with the previous application, it was accepted that a shared service lay-by with Langton Birches, could on balance be accepted, as this would not result in an additional new access onto an unrestricted and unlit section of public road. However, that argument is lost with the current submission due to a new access being proposed which is divorced from the existing access to Langton Birches. Given the above, I must withhold my support of this application; due to the inappropriate extension of this building group which would lead to a proliferation of accesses."

**COMMUNITY COUNCIL:** Although we have no objection to the proposed design of the dwelling house itself, we must table our objection as we consider the impact of the development on the road between Langton Birches and Middlewood Farm to be problematic. Specifically:

1. The road between Langton Birches and Middlewood Farm has been the subject of much discussion at the Community Council over the past few years with regard to both drainage and the condition of the carriageway. This is a narrow and very poorly drained section of road. As a consequence, traffic passing along this section is often forced off the tarmac onto muddy, boggy sections on either side of the carriageway. Vehicles have difficulty passing safely without wheels, tyres and suspension being damaged. The CC has requested work to be carried out to improve the situation but it is unlikely that a comprehensive project to resurface this section of road (complete with the necessary drainage) will be possible. We do however understand that some work can be done through the Neighbourhood Operations Small Scheme Fund.
2. Having looked carefully at the proposed access to the site we are concerned about the poor visibility because of the trees and hedges around the perimeter of the site. Clearly as this is a derestricted section of road, we consider the proposed entrance to be a potential safety hazard.
3. Construction traffic we believe could be a considerable hazard on this section of road. Parking of heavy vehicles on the existing substandard verge would result in even more damage to the fragile highway. We believe that hard standing will need to be provided for all construction traffic.
4. Service traffic in the future will also need to be catered for with some form of layby as the existing road width is insufficient for both parked service vehicles and the safe passage of other vehicles.

We would therefore ask that planning approval be subject to:

1. The provision of adequate drainage along the roadside perimeter of the development.
2. Adequate visibility for vehicles entering and leaving the property.
3. Appropriate hardstanding for both construction traffic and future service traffic.

Finally, could I suggest that in determining this application the Planning Officers take on the views of Mr Daren Silcock (Neighbourhood Area Manager Berwickshire), as I am aware that he has plans to provide upgraded facilities on this section of road.

**NEIGHBORHOOD SERVICES MANAGER:** Though not a consultee, the Neighbourhood Services Manager was copied into the consultation reply of Gavinton, Fogo, and Polwarth Community Council as Neighbourhood Operation have funding to create two new passing places on the C101 from Gavinton to Nisbet Rhodes. Neighbourhood Services advise they have no opinion on whether a house is suitable at this location from a planning perspective, but if permission was granted then they would be interested in where the service layby/ entrance would be located/ installed to ensure that it doesn't conflict with where SBC (NS) may decide to install either of the passing places along with any drainage works that may be necessary as part of these works.

## **PUBLICITY AND REPRESENTATIONS**

The application did not require any postal notification, there being no postal addresses (other than the applicants existing dwelling) within the statutory notification distance. The application was publicised by means of a press notice in the Berwickshire News, and a notice on the national public notice website "Tell Me Scotland". No objections or representations were received.

## **PLANNING CONSIDERATIONS AND POLICIES:**

**LOCAL DEVELOPMENT PLAN - Adopted Scottish Borders Local Development Plan (2016)**

PMD1: Sustainability  
 PMD2: Quality Standards  
 ED10: Protection of Agricultural Land and Carbon Rich Soils  
 HD2: Housing in the Countryside  
 HD3: Protection of Residential Amenity  
 EP3: Local Biodiversity  
 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 (2010)
- Development Contributions (2016)
- New Housing in the Borders Countryside (2008)
- Trees and Development (2008)
- Householder Development (incorporating Privacy and Sunlight Guide) (2006)

**Recommendation by** - Andrew Evans (Planning Officer) on 29th September 2017

#### SITE

The application site is an area of land in the garden ground of the existing dwelling at Langton Birches, Duns. The existing house is located to the east of the application site. The house has a mature garden ground. To the south of the site is located agricultural land. To the north is the minor road to Gavinton. The site is level.

#### PROPOSED DEVELOPMENT

Planning permission in principle is sought for the erection of a single detached dwelling. Indicative drawings were submitted with the application. These show a dwelling positioned west of the existing house at Langton Birches, in garden ground.

#### SITE HISTORY

Application 12/00343/FUL for the erection of a single dwelling on the same site was refused on appeal. The Local Review Body varied the decision of the appointed officer and refused planning permission for the following reason:

1. The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located outwith the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
2. The proposed dwelling would be contrary to Policy G1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.
3. The proposed development would be contrary to Policy G1 of the Consolidated Local Plan in that the proposal would constitute an unacceptable over-development of the plot and that the dwellinghouse could not be satisfactorily accommodated on the application site.

This third reason was added in by the LRB, and was not part of the original officer's delegated decision.

Application 13/01025/FUL for the erection of a single dwelling on the same site was withdrawn.

There has been no major change in the Housing in the Countryside policies and guidance of the Council since the determination of the previous application on the site.

#### POLICY PRINCIPLE / BUILDING GROUP

An existing building group is located to the north east of the site. Numerically, the group has capacity to accommodate a dwelling within the current plan period. However, in terms of the position of the site relative to the group, there is a clear conflict with adopted policy; my view is that the group itself is on the other side of the minor road, and also offset from the application site. The application site is remote from the building group, and does not form part of it.



The Local Review Body in 2012 reached a similar view, that there was a building group at Langton Birches, Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and Langton Birches itself and that the locus had a distinct sense of place. However, they were unclear as to the precise boundaries or extent of the group and the relationship of the proposed house to the existing properties. Members were also concerned about the capacity of the proposed site itself to accommodate the proposed development. The Planning Authority has previously been of the view that the applicants existing dwelling, Langton Birches, forms part of a wider building group consisting of 5 existing dwellings, 4 of which are located on the north side of the public road.

Whilst there is a group present at Langton Birches, this current planning application site does not form part of it, and is not well related to it. The proposed site of the new dwelling would not respect or reflect the character and amenity of the group as it would be located out with the area contained by the sense of place and would result in the loss of existing trees and shrubs which contribute to the identified sense of place. The garden woodland within which the site is positioned serves a landscaping function to the edge of the building group. There is considered no justification for a dwelling under part A (Building Groups) of policy HD2 of the Local Development Plan. Concerns over ribbon development remain.

#### PRIME QUALITY AGRICULTURAL LAND

Policy ED10: Protection of Agricultural Land and Carbon Rich Soils is notionally applicable to the site. This aims to protect prime quality agricultural land from development. Despite being identified as PQAL, it was apparent at the time of my site visit, that the application site is now completely positioned within the maturing garden ground and planting, and is not agricultural in nature. I have no concerns in terms of any conflict with policy EP10 of the LDP.

#### PLACEMAKING AND DESIGN

The proposals require to be assessed in terms of the adopted Supplementary Planning Guidance and the adopted planning policies relating to Placemaking and Design. The Local Development Plan contains a group of policies on Placemaking and Design.

##### - House design

The submitted application was made in principle, and as such, detailed design considerations are not being decided with this application. A suitable house design could be brought forward.

##### - House position and orientation

The undulating nature of the southern edge of the application site means that there are concerns on the acceptability of the site for a house. The combination of the small size and unusual shape of the plot limits the ability to successfully accommodate the house, whilst providing useful garden ground, parking for two cars and turning facilities. This has not changed since the previous refusal of this site.

The existing dwellings form a relatively tight group, with the exception of Langton Birches, but the proposed dwelling would be located 55m west of this property and would not follow the general pattern of development or spacing between existing properties. This would lead to ribbon development along the public road to the detriment of the character and amenity of the existing group and a form of development not supported by the Roads Planning Service.

Policy PMD2 of the Local Development Plan sets out the Council position in terms of quality standards for all new development. Policy PMD2 (Quality Standards) of the LDP sets out (amongst other matters) criteria on Placemaking and Design. The most relevant here are as follows. Criteria (h) requires development are created with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; Criteria (k) requires that development is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form, Criteria (l) requires that development can be satisfactorily accommodated within the site, I do not consider development of a house on this plot would meet these placemaking criteria. The proposed development would conflict with the requirements of policy PMD2 (Quality Standards) of the Local Development Plan. Were the site acceptable in principle, the Planning Authority would have given consideration to limiting the form, scale and position on the plot to reflect that of the housing adjacent to the site.

## TREE, WOODLAND AND HEDGEROWS

Existing trees, woodland, and hedgerows are protected by policy EP13 of the LDP on Trees, Woodlands and Hedgerows. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, which are both relevant to these proposals. The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction. Policy EP13 (Trees, Woodlands and Hedgerows) of the LDP sets out the Council position in detail. In the case of these proposals, the development set out in the submitted application it would have been possible for a house to be suitably positioned within the existing trees.

I am satisfied that the proposed development could comply with the requirements of policy EP13 (Trees, Woodlands and Hedgerows) of the Local Development Plan, and the adopted SPG on Trees and Development. However, had the application been acceptable in principle, I would have been minded to consider imposition of conditions to protect trees to be retained, and identify which trees can be removed.

## LANDSCAPING

Further conditions would have been appropriate in terms of hard surfaces, materials, surfacing and boundary treatments, had the principle of development been acceptable here.

## AMENITY AND PRIVACY

The impact of development on neighbouring amenity is a material planning consideration. Amenity and privacy are afforded protection via policy HD3 of the LDP, and via the adopted SPG on Householder Development. The SPG sets out privacy and amenity standards to ensure that any overshadowing or overlooking is to an acceptable level. Existing neighbours are entitled to a degree of protection of amenity and privacy. In the case of this application, I am content that a dwelling on the proposed site could comply with these standards. The nearest other dwellings are sufficiently distant from the site that I am satisfied the proposal to develop a house on this site would not affect the residential amenities of occupants of these properties.

## ROAD SAFETY

Road safety is a material planning consideration. Policy IS7 on Parking Provision and Standards sets out that development proposals should provide for car and cycle parking in accordance with approved standards. Policy PMD2 (Quality Standards) of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access. Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

The Roads Planning Service was consulted on this application, and advises that their position is unchanged since the determination of the previous application. The proposals give rise to some road safety concerns given its location in relation to the rest of the building group. The main issue related to concerns over a proliferation of accesses and the lack of appropriate infrastructure. Nevertheless, with the previous application, it was accepted that a shared service lay-by with Langton Birches, could on balance be accepted, as this would not result in an additional new access onto an unrestricted and unlit section of public road. However, that argument is lost with the current submission due to a new access being proposed which is divorced from the existing access to Langton Birches. The RPS engineer has therefore withheld support of this application due to the inappropriate extension of this building group which would lead to a proliferation of accesses.

Following the comments of the Community Council, The Neighbourhood Services Manager provided commentary in regards to future proposals for provision of passing places on the minor road serving the site. The Roads Planning Service Engineer was aware of this when making his comments on the application.

I am satisfied that the proposed development would have unacceptable access arrangements. The application is considered to be contrary to the relevant access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016.

Suitable parking is likely to be achievable in terms of IS7 (Parking Provision and Standards).

#### **WATER SUPPLY AND DRAINAGE**

Policy IS9 of the Local Development Plan on Waste Water Treatment Standards and Sustainable Urban Drainage is relevant to this application. This sets out that development proposals should make satisfactory arrangements for dealing with foul and surface water drainage. SUDS (Sustainable Urban Drainage Systems) principles should be incorporated in the development. The site is located in a rural area. The submitted supporting statement specifies that the proposed means of water supply is via public water supply. It further advises that surface water drainage will be installed on site to SUDS principles. Foul water drainage will be provided on site with a sewage treatment plant and soakaway. Were the application otherwise acceptable, water supply and drainage could be suitably controlled via imposition of planning conditions.

#### **DEVELOPMENT CONTRIBUTIONS**

The Council has adopted Supplementary Planning Guidance on Development Contributions which is relevant to this application. Policy IS2: Developer Contributions of the LDP seeks to ensure that development contributions are identified and collected in line with prevailing policy. The SPG on Development contributions sets out the prevailing contribution levels. In the case of this application, contributions were identified in terms of Education and Lifelong Learning. This requirement currently totals £8,067. Were the application otherwise acceptable, then a legal agreement to ensure collection of this contribution would have been necessary.

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

The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not relate sympathetically to an existing building group and would lead to ribbon development along a public road.

#### **Recommendation: Refused**

- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in a proliferation of accesses, and represent a further access onto an unrestricted and unlit section of public road to the detriment of Road Safety.

# CONSULTATION RESPONSE TO PLANNING OR RELATED APPLICATION

Comments provided by	Roads Planning Service Officer Name and Post:		Contact e-mail/number:	
	Keith Patterson Roads Planning Officer		<a href="mailto:kpatterson@scotborders.gov.uk">kpatterson@scotborders.gov.uk</a> 01835 826637	
Date of reply	16 <sup>th</sup> April 2018			
Planning Application Reference	18/00270/PPP		Case Officer: Andrew Evans	
Proposed Development	Erection of Dwellinghouse			
Site Location	Land West of Langton Birches, Duns.			
<i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i>				
Background and Site description	There have been a number of previous applications at this site. Concern has previously been expressed about the potential for a proliferation of access and the lack of infrastructure in the surrounding area.			
Key Issues (Bullet points)				
Assessment	<p>The applicants have attempted to take on board the previous comments raised by this section in terms of serving both the existing property and the proposed site with a shared service lay-by. Whilst in theory this is acceptable, the current proposal stretches the service layby to approximately 60m in length. A standard service lay-by to serve two accesses is 24m in length including tapers. Whilst there is some leeway in terms of modifying the standard specification to fit a particular situation, the current proposal takes this to an unacceptable extent.</p> <p>I shall require an amended drawing to be submitted showing the service lay-by reduced in size by at least half before I am able to support this proposal.</p> <p>The applicant may wish to consider closing the existing access to Langton Birches and relocate this to a new access serving both properties at the proposed location shown on the location plan submitted.</p>			
Recommendation	<input type="checkbox"/> Object	<input type="checkbox"/> Do not object	<input type="checkbox"/> Do not object, subject to conditions	<input checked="" type="checkbox"/> Further information required
Recommended Conditions				
Recommended Informatives				

**Signed :**     **Alan Scott**



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## List of Policies

**Local Review Reference:** 18/00017/RREF

**Planning Application Reference:** 18/00270/PPP

**Development Proposal:** Erection of dwellinghouse with associated access road, parking area and combined entrance/layby

**Location:** Land West of Langton Birches, Duns

**Applicant:** Mrs Clare Fleming

### 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 ED10: PROTECTION OF AGRICULTURAL LAND AND CARBON RICH SOILS**

## **List of Policies**

Development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless:

- a) the site is otherwise allocated within this local plan
- b) the development meets an established need and no other site is available
- c) the development is small scale and directly related to a rural business.

Proposals for renewable energy development, including proposals for wind energy development, will be permitted if they accord with the objectives and requirements of policy ED9 on renewable energy development.

### **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



## List of Policies

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 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.

## **List of Policies**

### **(F) ECONOMIC REQUIREMENT**

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 EP3: LOCAL BIODIVERSITY**

Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

## **List of Policies**

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) aim to avoid fragmentation or isolation of habitats; and
- b) be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and
- c) compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and
- d) aim to enhance the biodiversity value of the site, through use of an ecosystems approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance.

### **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
- 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

## **List of Policies**

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.

### **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**



## **List of Policies**

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
- SBC Supplementary Planning Guidance on Landscape and Development 2008



### 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 2013

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

Use **BLOCK CAPITALS** if completing in manuscript

#### Applicant(s)

Name Craig Oliver

Address 27 Marigold Drive, Galashiels, TD1 2LW

Postcode TD1 1EP

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

E-mail\* [REDACTED]

#### Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

E-mail\*

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

Yes No

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

Planning authority

Planning authority's application reference number 18/00398/FUL

Site address 52 Bank St, Galashiels, TD1 1EP

Description of proposed development

change of use from retail to tattoo studio (retrospective)

Date of application 3 April 2018

Date of decision (if any) 29th May 2018

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 (tick one box)

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 type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

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

**Statement**

You must state, in full, why you are seeking a review of 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

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. Note: there will be no opportunity to submit further documents to accompany this notice of review.

Grounds for appeal as attached.

Letter of support from Christine Graham MSP

Confirmation that Timebomb are finalists in Scotland's Business Awards (Borders)

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.

*Trying to access email from christen greben*

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



Date

28/8/2018

**The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to [localreview@scotborders.gov.uk](mailto:localreview@scotborders.gov.uk)**

18/00398/FUL

Timebomb Tattoo, Bank St, Galashiels

Craig Oliver

### **Notice of Review**

The application was refused on the grounds that

(1) the level of contribution of the proposed to the town's core retail function will not be so significant as to justify its occupation by the proposed use and there is no evidence to suggest otherwise.

Timebomb Tattoo is one of Scotland's leading tattoo salons. Clients travel to Galashiels from across the Borders, Scotland and even Europe for the sole purpose of having a tattoo done at Timebomb. The salon is highly regarded within the sector and the tattoo artists employed in the shop are invited to attend exhibitions and conventions. Visiting tattoo artists (the most recent was from the USA earlier this summer) come to Timebomb to feature their work and draw a fresh range of clients. Timebomb offers employment to 4 tattoo artists, all of whom have full diaries and are booked up six to seven weeks in advance. An average of 200 clients visit the salon each month. Most are accompanied by a friend or family member who, whilst the tattoo is being made, visit local cafes, restaurants or shops. As such, Timebomb is significantly contributing to the local economy and footfall.

(2) the development would potentially detract from the vitality and viability of the town centre and no other material considerations would outweigh this potential harm.

This appears an objective measure.

In the time that Timebomb has been in operation, there is no evidence that it has detracted from the vitality and viability of the town centre. On the contrary, the shared footfall outlined in (1) above directly contributes to improve the vitality and viability of the town. There are a number of empty units on Bank Street and elsewhere in the town centre (particularly Channel Street and Douglas Bridge), if this appeal is denied and Timebomb has to close, adding to those empty units, then that will certainly detract from the vitality and viability of the town. It is a measure of the esteem with which Timebomb is held that they have reached the finals of the Borders Retail Business Awards 2018.

There was significant media coverage of the decision to refuse permission for the DWP to take a property on Douglas Bridge last year. That decision was overturned at appeal by the Scottish Government with the Reporter noting "a number of units were vacant or displaying 'to let' signs and I noted a number of charity shops. Overall it (Galashiels) displays signs of decline and little evidence of recent investment." Denying change of use for Timebomb and potentially adding to the number

of vacant units seems to stand in direct conflict to Scottish Borders Council's stated aims of encouraging investment and entrepreneurship. It is frustrating and upsetting that the Change of Use was denied just weeks before Scottish Borders Council announced plans to relax the strict retail use in Galashiels. It is particularly distressing that, prior to that decision, other businesses have recently been granted change of use in Bank Street with seemingly little or no hurdles to overcome. To reiterate, Timebomb is a thriving business giving employment to four, it attracts visitors to the town, with Timebomb clients visiting other shops and businesses. Timebomb actively contributes to the local economy.



27 AUG 2018

HEADQUARTERS  
NEWTOWN ST BOSWELLS  
TO6 0SA



## **Borders Retail Business Awards 2018**

### **TIMEBOMB TATTOO, GALASHIELS**

Your business has been nominated by the public within the last 12 months and now reached the final of the Borders Retail Business Awards. We'd like to feature your business at the Awards Ceremony and Dinner which returns to the Borders this year at the Peebles Hydro Hotel, Innerleithen Road, Peebles, EH45 8LX at 6:30pm on Sunday 30th September 2018

In the category of

### **BEST TATTOOISTS**

As a finalist business you are considered for consumer awards too.  
**Mystery shopping will continue until the week before the ceremony.**

People can show their support for you by voting at

**[www.scotlandsbusinessawards.co.uk/borders](http://www.scotlandsbusinessawards.co.uk/borders)**

Voting will close on Friday 28<sup>th</sup> September

If you'd like to attend the Black Tie Awards Ceremony and Dinner please visit

**[www.scotlandsbusinessawards.co.uk/tickets](http://www.scotlandsbusinessawards.co.uk/tickets)**

and click on the Borders Retail Business Awards link then use the access code

**Early Bird discounts available until 2<sup>th</sup> September 2018**

Any questions please contact the head of the presentation team  
Scott Somerville who will be calling on you prior to the awards  
**[scott@scotlandsbusinessawards.co.uk](mailto:scott@scotlandsbusinessawards.co.uk)** or on **0750 540 1575**

Please don't post this online in full as it contains password information, thank you.



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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 : 18/00398/FUL**

**To : Craig Oliver 27 Marigold Drive Galashiels Scottish Borders TD1 2LW**

With reference to your application validated on **3rd April 2018** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Change of use from retail to tattoo studio (retrospective)**

**at: 52 Bank Street Galashiels Scottish Borders TD1 1EP**

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

**Dated 29th May 2018  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**

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

**APPLICATION REFERENCE : 18/00398/FUL****Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposed development does not comply with Policy ED4 of the Local Development Plan 2016 in that it does not comprise a Class 1 (retail) or Class 3 (food and drink) use. The level of contribution of the proposed use to the town's core retail function will not be so significant as to justify its occupation by the proposed use and there is no evidence to suggest otherwise. The development would potentially detract from the vitality and viability of the town centre and no other material considerations would outweigh this potential harm

**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 :** 18/00398/FUL

**APPLICANT :** Craig Oliver

**AGENT :**

**DEVELOPMENT :** Change of use from retail to tattoo studio (retrospective)

**LOCATION:** 52 Bank Street  
Galashiels  
Scottish Borders  
TD1 1EP

**TYPE :** FUL Application

**REASON FOR DELAY:**

---

**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

Consultations:

Roads Planning Service: No objection. It is unlikely that this proposal will result in a detrimental effect on the surrounding road network. There is town centre parking available both on and off street within acceptable walking distance

Environmental Health Service: Noise from equipment used on these premises has the potential to impact on local amenity. Recommend conditions regarding noise limits

Economic Development Service: Have no objections and support this application as it could increase town centre footfall.

Flood Protection Officer: The site is at risk from a flood event with a return period of 1 in 200 years. In 2012, several businesses on Bank Street were badly flooded from water overtopping at the Bakehouse Burn, running down St John Street and Gala Park, which pooled on Bank Street. If this application is to be approved, the FPO recommends that the applicant signs up to receive early warning from the Council's water level gauge on the Bakehouse Burn. It is also recommended that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE. Flood protection products such as floodgates and air-vent covers are also commercially available from the Council at heavily discounted prices. The FPO recommends that the owner purchases a flood gate and self-closing airbricks if required. However, this is a change of use that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems and he does not oppose it on flooding grounds.



Forward Planning Service: This site is within the Core Activity Area of the town as defined in the Local Development Plan 2016. The application must be assessed against Policy ED4. This policy seeks to ensure Class 1 retail units are not lost within town centres as these generate higher footfall which enhances vitality and viability of the town centre. The policy also allows other uses within Class 3 (food and drink). This proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis. The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties. The proposed use requires to be tested against Policy ED4's criteria.

The Council's Town Centre Footfall Survey at this location indicates a recent increase up to 8470 in 2017 from 6850 in 2013. The Council's most recent retail survey (Summer 2017) indicates that the Galashiels' retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance.

The Council's retail survey, which goes back to 2006, shows that these premises were vacant between Spring/Summer of 2016 and the Spring/Summer of 2017. It is believed the tattooist opened in May 2017. At no other time since 2006 have the premises been vacant. No information has been submitted in respect of the marketing of the premises at the time it was vacant. It is not, therefore, possible to assess this retrospective application in terms of the marketing history of the proposal during this period. Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive garden. Vacancy rates on Bank Street have historically been low.

Town centre regeneration in Galashiels is a major objective for the Council and these principles are identified in the Blueprint. If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. This would have major implications for the aspirations of ensuring a buoyant and healthy town centre.

It is not considered that this planning application meets the requirements of Policy ED4 and should therefore be refused.

Community Council: No reply

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

PMD2, PMD5, ED3, ED4, HD3, EP9, IS7, IS8, IS9

Scottish Planning Policy 2014

**Recommendation by** - Carlos Clarke (Lead Planning Officer) on 28th May 2018

#### **Proposal and site description**

This application seeks retrospective consent for a tattoo studio within a former retail unit located within the town centre. The property fronts Bank Street and has a timber faced shopfront.

#### **Principle**

The property is within the town centre. Policy ED3 supports a wide range of uses appropriate to the town centre. This is a use appropriate to a town centre location, capable of contributing positively to its overall character, mixed use nature and overall vitality and viability. However, the property is also within the Core Activity Area where uses other than Class 1 (retail) and 3 (food and drink) are to be refused under Policy ED4, unless the proposal can be assessed as contributing significantly to the town centre's core retail function. This proposal would most comfortably fit within Class 2 and, even if categorised outside a Class

(sui generis) it would be in conflict with Policy ED4 since it is within neither Class 1 nor 3. The test is whether the proposal would make a significant positive contribution to the core retail function of the town centre. To assist with this test, Policy ED4 identifies six criteria to apply to Class 2 uses, and these are considered in turn:

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

It is difficult to be anything other than speculative as regards to how this particular business will contribute to joint shopping trips. It will clearly do so more than a vacant shop, or perhaps some other Class 2 or other uses. However, it will likely do so less than a shop or café, since clients are likely to be in the building for some time and may not perhaps be likely to combine their visit with shopping. That said, some may do and clients may likely visit for consultations before or after receiving a tattoo. Some may also be accompanied by friends or family who may wish to combine their trip with visits to shops, a café or other town centre businesses. I would, however, ultimately consider that the proposal is unlikely to contribute significantly to joint shopping trips, certainly not to the extent of a Class 1 or Class 3 use.

2. Footfall contribution

As our Economic Development Service note, the proposal will generate footfall since it will comprise a business that generates personal visits by clients. However, as the Forward Planning Service note, it may most likely generate significantly less footfall than a typical retail unit. That said, the unit itself is small so differences between footfall generated by a shop or café and tattooist will be proportionate to the size of the unit and the success of the business itself. There is no firm evidence on the matter, but it is reasonable to speculate that the level of footfall is unlikely to be as significant as for a Class 1 or Class 3 use operating from the same premises.

3. Current vacancy and footfall rates

As our Forward Planning Service notes, the Council's most recent retail survey (Summer 2017) indicates that the Galashiels' retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. This indicates an improvement, but also a relatively high level of vacancy, which suggests the town remains vulnerable in terms of its capacity to attract and maintain commercial businesses. As they also suggest, Bank Street is an attractive and buoyant retail area of Galashiels. Vacancy rates on Bank Street have historically been low. On the one hand, this suggests the street is attractive to retailers and may remain so - to allow Class 2 uses may dilute its attractiveness. On the other hand, this might also suggest that the street is robust enough to accommodate small changes in its overall mix of uses, particularly since it does, already, contain a number of non-retail businesses. It is to be noted also that the Local Review Body recently consented the provision of a dog grooming practice further along the street (application 17/01704/FUL) which will also add to the variety of uses that complement the retail function, but will reduce its core retail base. This proposal will contribute positively in that it will ensure occupancy of a unit, albeit it will contribute negatively in that it will remove another unit from the retail core.

In terms of footfall, the Council's Town Centre Footfall Survey indicates an increase up to 8470 in 2017 from 6850 in 2013 at this location. As the FPS notes, footfall along Bank Street is reasonably high. Given this use did not commence operation until the past year or so, it is not possible to be sure as to how it may have contributed to footfall, since the next survey is not due until later in the year. As noted above, this proposal will contribute positively to footfall, but not likely to the extent of a Class 1 or 3 business, albeit the small size of unit means that any variations may not, perhaps, be significant.

4. Longevity of vacancy

I understand that the property has been vacant once since 2006. The most recent being the period just before this business commenced operating from the premises. According to the Council's retail survey it appears that the property was vacant between summer 2016 and May 2017. The applicant was asked to confirm when he started operating and how long the property was vacant before he moved in, but has not responded to calls or emails regarding the application. In any case, while any extent of vacancy is concerning, longer periods of vacancies have become increasingly common in town centres in the last ten years, and this period is not extensive. Any period of vacancy is clearly undesirable in terms of the vitality of the town centre, however, the level of vacancy here does not appear significant enough that it should be an overriding consideration.

## 5. Marketing history of premises

It is known that the premises were marketed by a local agent on-line and by a notice in the window. However, it was described as a shop or an office, the latter being a Class 2 use itself for which the unit was not lawfully capable of being occupied as. Regardless, whether the opportunity given for Class 1 or 3 businesses to use the premises was sufficient is unknown. Obtaining information on the extent of marketing from the owner would have been helpful, though I have been unable to approach the owner without having first agreed this with the applicant who has not responded to any emails or calls regarding this application. It is, however, apparent that the property was marketed but this does not, on its own, demonstrate that a departure from Class 1 or 3 uses should be permitted.

## 6. Ability to retain shop frontage

The shop frontage has been unaffected by the use since it commenced, and no alterations to it are proposed. The arrangement of the interior has resulted in a relatively welcoming public frontage, with an entrance/waiting area to the front of a display wall visible from the outside. The proposal is acceptable as regards this criterion.

Ultimately, Policy ED4 resists uses other than those falling within Class 1 and 3 unless it can be shown that the proposed use will make a significant positive contribution to the core retail function. Applying the policy tests to this proposal, I would conclude that the proposal will make a positive contribution, in that it will ensure a business that contributes to town centre activity will operate from the premises, as opposed to it being vacant. However, this will be at the expense of a unit that could be occupied by a Class 1 or 3 use which would likely contribute more significantly to the core retail function of the town. While the level to which any particular use might contribute to the town's core retail function from a unit this size may not be vastly different between one use and another, this proposal will not reach the level of 'significant contribution' that the policy requires. On balance, I would conclude that the proposal does not satisfy Policy ED4.

I note that the LRB has recently allowed for a dog groomers in Bank Street on the basis that it will provide a specialist service, despite being a Class 2 use. Though a tattooist provides a specialist service, it is perhaps not quite a niche market, and indeed is a use that is becoming increasingly commonplace. Though the LRB's decision recognises that there needs to be some flexibility when dealing with small scale units, it is also a decision to be taken on its own merits, and does not directly influence a decision on this application which has its own particular considerations to account for.

## Services and parking

The proposal is acceptable as regards parking and access issues. It is presumed that mains water and drainage services will exist and that long standing bin storage and collection arrangements are in place.

## Flood risk

As our Flood Protection Officer notes, the property is at risk of flooding, though the proposal is not a vulnerable use. An informative note can cover the FPO's recommendations.

## Amenity

The use will not conflict with other businesses, nor directly affect the amenity of neighbouring properties. I note the EHS's suggestion that a noise limit be imposed. However, this is a town centre use in a town centre location, and equipment in a tattooists is unlikely to generate high levels of external noise. The business has already become established and the EHS has not advised of any concerns with its operation to date. The EHS has scope to control noise separately under environmental protection procedures, so a condition would appear to be unnecessary. An informative could have usefully drawn the applicant's attention to the matter if the application were to be approved.

## Alterations

No external alterations are proposed, so there will be no adverse effect on the character or appearance of the Conservation Area. No signage is proposed and, would, in any case, fall to be considered under the

Advertisement Regulations. An Informative note can refer the applicant to consent requirements for such works.

**REASON FOR DECISION :**

The proposed development does not comply with Policy ED4 of the Local Development Plan 2016 in that it does not comprise a Class 1 (retail) or Class 3 (food and drink) use. The level of contribution of the proposed use to the town's core retail function will not be so significant as to justify its occupation by the proposed use and there is no evidence to suggest otherwise. The development would potentially detract from the vitality and viability of the town centre and no other material considerations would outweigh this potential harm

**Recommendation:** Refused

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



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-2 APR 2010 - CCL.



TOWN AND COUNTRY  
PLANNING (SCOTLAND) ACT  
1997 (AS AMENDED)

For Office Use Only:

Application Number: 18/00398/FUL

Date Registered: 3.4.18.

# PLANNING APPLICATION

1. Name and Address of applicant	Name and Address of Agent
CRAG OLIVER	
27 MARIGOLD DRIVE	
GALASHIELS Post Code: TD1 2LW	
Tel. No. [REDACTED]	Tel. No. ....
E-mail address [REDACTED]	E-mail address.....

2. Full Postal Address of Applicant (as indicated on the site plan)
52 BANK STREET, GALASHIELS, TD1 1EP.
Is this address a flat? Yes <input type="checkbox"/> No <input type="checkbox"/>

3. Brief Description of Proposed Development
CHANGE OF USE FROM RETAIL TO TATTOO SHOP (SHI GENEERIS) (RETROSPECTIVE)

4. Type of Application (tick <u>one</u> box only)	
(a) Full application for new building works and/or a change of use and/or engineering works	<input checked="" type="checkbox"/>
(b) Full application for a change of use not involving any building works	<input type="checkbox"/>
(c) Planning permission in Principle	<input type="checkbox"/>
(d) Approval of matters specified in conditions (pursuant to a Planning Permission in Principle)	<input type="checkbox"/>
(e) Application for removal or variation of a condition on a planning permission previously granted (Please indicate reference number of previous application)	<input type="checkbox"/>
(f) Application for renewal of a limited period permission (Please indicate reference number of previous application)	<input type="checkbox"/>
(g) Application for renewal of an unimplemented permission You need only answer Questions 16 and 17 (Please indicate reference number of previous application)	<input type="checkbox"/>

5. Applications for Matters Specified in Conditions (if you ticked (d) in Q.4, please complete)	
(a) State the reference number and date of the planning permission in principle .....	
(b) State which of the conditions are submitted for approval as part of this application:	
All Conditions (please tick) <input type="checkbox"/> or Condition Numbers	



## 6. Pre-Application Discussion and Consultation

(a) Has assistance or prior advice been sought from Scottish Borders Council about this application?

Yes ☐

No ☐

If yes, please complete the following information about the advice you were given:

Officer Name:

CLARE OLIVER

Date:

Council Reference:

(b) Has Pre-Application Consultation taken place (for MAJOR developments: See Notes for Guidance)?

Yes ☐

No ☐

If Yes, a Pre-application Consultation Report should accompany this application

## 7. Site Area

..... hectares

8. State whether applicant owns or controls any adjoining land (edged in blue on submitted plans)

Yes ☐

No ☐

## 9. Existing/Proposed Uses

Please indicate all existing and proposed uses that are the subject of this application:

Existing

Proposed

## 10. Commerce and Business

### (A) Floorspace

Please indicate the total amount of floorspace (in square metres) to which this application relates

Existing -

Proposed -

### (A) Employment

Please indicate the number of staff employed (including part-time):

Existing -

Proposed -

### (B) Traffic Flow

What is the anticipated traffic flow to the site during a normal working day? (No. of vehicles moving in and out of the site) (Include all vehicles except those used by individual employees driving to work)

Existing -

Proposed -

### (C) Industrial Processes

In the case of industrial development, please give a description of the processes to be carried on and of the end products, as well as the type of machinery to be installed:

### (D) Storage of Hazardous Substances

Will the proposal involve the use or storage of any materials of a type and quantity defined as hazardous substances? If YES, please state materials and quantities below:



### 11. Car Parking

Please indicate car parking facilities/spaces:

Existing:

Proposed:

### 12. Accesses and Rights of Way (Please tick those that apply)

- (A) There will be **no new access** to a highway (either vehicle or pedestrian), **no alteration** to an existing access to a public road and **no alteration** to any public right of way or other public path ☐
- (B) There **will be** a new or altered access to a public road      Vehicular ☐      Pedestrian ☐
- (C) A public right of way or other public path **will be affected** by the proposed development ☐

### 13. Trees

Will the proposed development involve the felling of any trees?  
(If YES, please indicate positions on plan)

Yes

☐

No

☐

### 14. Drainage and Water Supply

(A) Please state how surface water will be disposed of: .....

(B) How will foul sewage be dealt with?

Mains sewer

☐

Septic Tank and Soakaway

☐

Other (Please specify).....

(C) From where will the proposed development receive its water supply?

Public mains supply

☐

Private source

☐

Where the water supply is from a private source, has any testing or analysis been undertaken?

Yes

☐

No

☐

Please indicate position of source on location/site plan, and where possible provide details of the source (e.g. borehole, spring etc.), and of any related pipework or apparatus

### 15. Materials

Please state type and colour of materials to be used (if known)

	EXISTING	PROPOSED
Exterior Walls		
Roof		
Windows		

### 16. Additional Information

Is there any additional information you wish to give in support of this application?



## 17. Declaration

I hereby apply for planning permission and declare that, to the best of my knowledge, the information contained in this application and on the submitted plans is correct.

I attach FOUR copies of the application forms and enclose the application fee of £401....., together with:

- ☒ Four sets of the necessary plans and drawings
- ☐ In the case of MAJOR developments, a Pre-Application Consultation Report
- ☐ A Design and Access Statement or Design Statement, where the application site is situated within a conservation area, historic garden or designed landscape, a National Scenic Area, the site of a scheduled monument or the curtilage of an A Listed Building (see Notes for Guidance for further information)

X Signed  on behalf of..... Date 2/4/18

## 18. Please complete Certificate A and Certificate B (please tick ONE box in each)

### CERTIFICATE A under Section 35 of the Town and Country Planning (Scotland) Act 1997, as amended

I certify that:

☐ At the beginning of a period of 21 days ending with the date of this application, nobody other than the applicant was the owner<sup>1</sup> of all of the land to which the application relates

OR

☒ The applicant has given the required notice to everyone who, at the beginning of the period of 21 days ending with the date of the accompanying application, was the owner<sup>1</sup> of any part of the land to which the application relates, as listed below:

Owner's Name	Address at which notice was served	Date on which notice was served
BELINDA NUNN	32 MARKET STREET GALASHIELS TD1 3AA	2/4/18.

X Signed  on behalf of..... Date 2/4/18

### CERTIFICATE B under Section 35 of the Town and Country Planning (Scotland) Act 1997, as amended

I certify that:

☐ At the beginning of a period of 21 days ending with the date of this planning application, none of the land to which the application relates is, or is part of, an agricultural holding;

OR

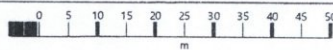
☒ The applicant has given the required notice to every person other than the applicant who, at the beginning of 21 days ending with the date of the application, was a tenant of an agricultural holding on all or part of the land to which the application relates, as follows:

Tenant's Name	Address at which notice was served	Date on which notice was served

X Signed  on behalf of..... Date 2/4/18

<sup>1</sup> An owner includes anyone with a lease on the land that has at least seven years left to run





Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

**REFUSED**

subject to the  
requirements of the  
associated Decision  
Notice

OS MasterMap 1250/2500/10000 scale  
Friday, March 30, 2018, ID: M4P-00701697  
Brown Newsagents, Kelso

1:1250 scale print at A4, Centre: 349277 E, 636030 N

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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 :** 17/01704/FUL

**APPLICANT :** Mr S Wilson

**AGENT :**

**DEVELOPMENT :** Change of use from retail to dog grooming practice

**LOCATION:** 38 Bank Street  
Galashiels  
Scottish Borders  
TD1 1EP

**TYPE :** FUL Application

**REASON FOR DELAY:**

---

**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

Consultations:

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

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

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

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



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

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

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

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

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

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

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

Scottish Planning Policy 2014

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

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

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

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

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

## 2. Footfall contribution

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

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

## 3. Current vacancy and footfall rates

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

## 4. Longevity of vacancy

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

## 5. Marketing history of premises

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

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

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

#### 6. Ability to retain shop frontage

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

#### Services and parking

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

#### Flood risk

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

#### Amenity

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

#### Alterations

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

#### Conclusion

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

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

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

**Recommendation:** Refused



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

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



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 18/00007/RREF

**Planning Application Reference:** 17/01704/FUL

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

**Location:** 38 Bank Street, Galashiels

**Applicant:** Mr S Wilson

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**DECISION**

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

**DEVELOPMENT PROPOSAL**

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

**Plan Type**

**Plan Reference No.**

Location Plan

**PRELIMINARY MATTERS**

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

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



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

## **REASONING**

The determining issues in this Review were:

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

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

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

### **Other Material Considerations**

- Scottish Planning Policy 2014

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

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

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

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

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

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

## **CONCLUSION**

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

## **DIRECTION**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITION**

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

Reason: To ensure that the use is restricted to that applied for.

## **INFORMATIVE**

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

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### **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.

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

**Date.....** 19 April 2018



## PLANNING CONSULTATION

To: Economic Development Section

From: Development Management

Date: 5th April 2018

Contact: Carlos Clarke ☎ 01835 826735

Ref: 18/00398/FUL

### PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 26th April 2018, 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 26th April 2018, 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:** Craig Oliver

**Agent:** N/A

**Nature of Proposal:** Change of use from retail to tattoo studio (retrospective)

**Site:** 52 Bank Street Galashiels Scottish Borders TD1 1EP

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**OBSERVATIONS OF: Economic Development Section**

## CONSULTATION REPLY

We have no objections and support this application as it could increase town centre footfall.

**Scottish Borders Council**

**Regulatory Services – Consultation reply**

<b>Planning Ref</b>	<b>18/00398/FUL</b>
<b>Uniform Ref</b>	<b>18/00895/PLANCO</b>
<b>Proposal</b>	<b>Change of use from retail to tattoo studio (retrospective)</b>
<b>Address</b>	<b>52 Bank Street Galashiels Scottish Borders TD1 1EP</b>
<b>Date</b>	<b>18/4/18</b>
<b>Amenity and Pollution Officer</b>	<b>David A. Brown</b>
<b>Contaminated Land Officer</b>	<b>Reviewed – no comments</b>

**Amenity and Pollution**

**Assessment of Application**

Noise

Nuisance

This is an Application for Change of use from retail to a tattoo studio.

Noise from equipment used on these premises has the potential to impact on local amenity.

**Recommendation**

Agree with application in principle, subject to Conditions.

**Conditions**

*Any noise emitted by plant and machinery used in connection with the Development 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 discernible tonal component. Tonality shall be determined with reference to BS 7445-2*

*Reason To protect the residential amenity of nearby occupiers.*

*All equipment used on the premises shall at all times be maintained and operated so as to comply with the above Noise Limits.*

*Reason To protect the residential amenity of nearby occupiers.*

# Consultation Reply



## ENVIRONMENT AND INFRASTRUCTURE

**To:** HEAD OF PLANNING AND REGULATORY SERVICE

**FAO:** Carlos Clarke

**Planning Ref:** 18/00398/FUL

**From:** HEAD OF ENGINEERING & INFRASTRUCTURE

**Date:** 11<sup>th</sup> April 2018

**Contact:** Ian Chalmers

**Ext:** 5035

**Our Ref:** B48/2493

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**Nature of Proposal:** Change of use from retail to tattoo studio (retrospective)  
**Site:** 52 Bank Street Galashiels

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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.

In 2012, several businesses on Bank Street were badly flooded from water overtopping at the Bakehouse Burn, running down St John Street and Gala Park, which pooled on Bank Street.

If this application is to be approved, I would recommend that the applicant contacts the Flood and Coastal Management Team on 01835 825035 and signs up to our receive early warning from the Council's water level gauge on the Bakehouse Burn, there is currently a "Bank Street Flood Warning Group" that receives the messages.

Furthermore, there is also access and egress issues during flood conditions and I would recommend that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

Many businesses on the street own flood gates and a number of flood protection products such as floodgates and air-vent covers are also commercially available from the Council at heavily discounted prices through our subsidised flood product scheme; details of these can be found by calling Emergency Planning on 01835 825056. I would recommend that the owners purchase a flood gate and self-closing airbricks if required.



Notwithstanding the above this is a change of use that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems and I would not oppose it on flooding grounds.

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.

Ian Chalmers  
Engineer – Flood and Coastal Management  
Scottish Borders Council

## PLANNING CONSULTATION

To: Forward Planning Section

From: Development Management

Date: 5th April 2018

Contact: Carlos Clarke ☎ 01835 826735

Ref: 18/00398/FUL

### PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 26th April 2018, 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 26th April 2018, 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:** Craig Oliver

**Agent:** N/A

**Nature of Proposal:** Change of use from retail to tattoo studio (retrospective)

**Site:** 52 Bank Street Galashiels Scottish Borders TD1 1EP

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### OBSERVATIONS OF: Forward Planning Section

## CONSULTATION REPLY

52 Bank Street is located within the Core Activity Area of Galashiels as defined by the Scottish Borders Local Development Plan 2016. This application must therefore be assessed against Policy ED4 – Core Activity Areas in Town Centres. In essence, this policy seeks to ensure Class 1 retail units are not lost within town centres as these generate higher footfall which enhances vitality and viability of the town centre. As a result of the economic downturn Policy ED4 also allows other complimentary uses within town centres, namely those within Use Class 3 (Food and Drink).

The retrospective proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis which in extreme instances may allow consideration of allowing other uses.

The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties.

Policy ED4 states that 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 area function of the area and will only be acceptable where there is a significant positive contribution to the core retail function. Paragraph 1.2 of the fore text to Policy ED4 sets out criteria against which proposals for Class 2 uses within core retail activity areas will be considered, these are:

- 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

The proposed Class 2 Use therefore requires to be tested against the aforesaid criteria.

The Council's Town Centre Footfall Survey at this location (point 7/8) indicates a recent increase up to 8470 in 2017 from 6850 in 2013. The Council's most recent retail survey (Summer 2017) indicates that the Galashiels' retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance.

The Council's retail survey, which goes back to 2006, shows that these premises were vacant between Spring/Summer of 2016 and the Spring/Summer of 2017. It is believed the tattooist opened in May 2017. At no other time since 2006 have the premises been vacant. No information has been submitted in respect of the marketing of the premises at the time it was vacant. It is not, therefore, possible to assess this retrospective application in terms of the marketing history of the proposal during this period. Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive garden. Vacancy rates on Bank Street have historically been low.

Town centre regeneration in Galashiels is a major objective for the Council and these principles are identified in the Blueprint. If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. This would have major implications for the aspirations of ensuring a buoyant and healthy town centre.

It is not considered that this planning application meets the requirements of Policy ED4 and should therefore be refused.

# CONSULTATION RESPONSE TO PLANNING OR RELATED APPLICATION

Comments provided by	Roads Planning Service	Contact e-mail/number
Officer Name and Post	Alan Scott Senior Roads Planning Officer	<a href="mailto:ascott@scotborders.gov.uk">ascott@scotborders.gov.uk</a> 01835 826640
Date of reply	25 <sup>th</sup> April 2018	
Planning Application Reference	18/00398/FUL	Case Officer: Carlos Clarke
Proposed Development	Change of use from retail to tattoo studio (retrospective)	
Site Location	52 Bank Street, Galashiels	
<p><i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i></p>		
Background and Site description		
Key Issues (Bullet points)		
Assessment	<p>Given its previous use, it is unlikely that this proposal will result in a detrimental effect on the surrounding road network. There is town centre parking available both on and off street within acceptable walking distance of this location which will adequately cater for the anticipated traffic associated with this proposal.</p>	
Recommendation	<input type="checkbox"/> Object	<input checked="" type="checkbox"/> Do not object <input type="checkbox"/> Do not object, subject to conditions <input type="checkbox"/> Further information required
Recommended Conditions		
Recommended Informatives		

Signed: DJI



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## List of Policies

**Local Review Reference:** 18/00020/RREF

**Planning Application Reference:** 18/00398/FUL

**Development Proposal:** Change of use from retail to tattoo studio (retrospective)

**Location:** 52 Bank Street, Galashiels

**Applicant:** Craig Oliver

### 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'.

## List of Policies

### 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 PMD5: INFILL DEVELOPMENT**

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
  - b) it does not detract from the character and amenity of the surrounding area; and
  - c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
  - d) it respects the scale, form, design, materials and density in context of its surroundings; and
  - e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
  - f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.
- All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

### **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

## **List of Policies**

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.

### **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.



## **List of Policies**

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 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 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:

- 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.

## **List of Policies**

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 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.

### **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

## List of Policies

- comments from the Scottish Environment Protection Agency, also held by the council;
- (d) the Scottish Environment Protection Agency's Land Use Vulnerability Guidance.

### **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**

- "Shop Fronts and Shop Signs" Supplementary Planning Guidance 2011
- Town Centre Core Activity Area Pilot Study 2018
- Scottish Planning Policy 2014

**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 2013

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

Use **BLOCK CAPITALS** if completing in manuscript

<b>Applicant(s)</b>		<b>Agent (if any)</b>	
Name	Robin Purdie	Name	
Address	16 High Cross Avenue, Melrose	Address	
Postcode	TD6 9SQ	Postcode	
Contact Telephone 1	[REDACTED]	Contact Telephone 1	
Contact Telephone 2		Contact Telephone 2	
E-mail*	[REDACTED]	E-mail*	
		Mark this box to confirm all contact should be through this representative: <input checked="" type="checkbox"/>	
		Yes	No
* Do you agree to correspondence regarding your review being sent by e-mail?		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Planning authority Scottish Borders Council

Planning authority's application reference number 18/00764/FUL

Site address 37 Bank Street, Galashiels, TD1 1EP

Description of proposed development

Change of use from retail (Class1) to mortgage shop (Class 2)

Date of application 17/06/2018

Date of decision (if any) 02/08/2018



**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 (tick one box)

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:

I believe our proposal should be reconsidered. The unit has been empty and marketed for 2 years and there appears to be no logic or fairness in recently granting permission to the dog groomers then refusing us

### 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 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 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:

**Statement**

You must state, in full, why you are seeking a review of 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.

My company has had an offer accepted to purchase 37 Bank Street, which has been empty and on the market for nearly 2 years. We are an independent mortgage brokerage, and are going to rebrand our company to Borders Mortgage Hub upon moving. We are currently based in Edinburgh, but I am a born & bred Borderer who has been arranging mortgages around the mortgages for nearly 18 years.

Thus far, change-of-use planning permission has been declined even though:

1. The property has been empty and on the market for nearly 2 years
2. We will create jobs. At least one local person will be recruited immediately upon us arriving
3. We will bring an awful lot more footfall to the area than the shop has generated in the last 2 years
4. Our presence will enhance the area
5. A dog grooming business was granted permission very recently, at the next-door property. This company appears to be a one-man business, and that property was on the market for a lot less time than number 37

I have attached our supporting statement, along with additional info, and would be grateful if the outcome could be reconsidered.

As it stands, we find the refusal to be, at best, strange given the points above and, at worst, borderline discriminatory against professional services businesses. And it does not really create the impression that Galashiels is open to inward investment from businesses that want to relocate there.

And with regard to us being refused permission after the dog grooming business was recently accepted – we would really question the fairness of the decision to decline us if this cannot be overturned on 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 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.

Since making our initial application, some new information has since emerged regarding the previous use of the building. Prior to being owned by the current owner the property was at one time the office of Pike & Chapman solicitors, and prior to that was an office for the Pearl insurance company. Both of these are Class 2.

**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. Note: there will be no opportunity to submit further documents to accompany this notice of review.

Our supporting statement, which was previously submitted to the planning officer.

An additional letter with new info and further thoughts

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



Date

12/8/18

**The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to [localreview@scotborders.gov.uk](mailto:localreview@scotborders.gov.uk)**

16 High Cross Avenue  
Melrose  
TD6 9SQ

24<sup>th</sup> July 2018

Scottish Borders Council  
Council Headquarters  
Newtown St Boswells  
TD6 0SA

Dear Sirs,

**Ref: 18/00764/FUL 37 Bank Street, Galashiels, TD1 1EP**

With regard to the above application, we write in response to the Planning Consultation document that was added to the planning portal on 19<sup>th</sup> July, and with additional detail regarding our proposal.

The document culminates with the recommendation that our change-of-use application should be refused. So, we have taken time to consider this and also the Town Centre Core Activity Area Pilot Study, as published on 16<sup>th</sup> July. So, with this letter we hope to further explain why we believe that the refusal would be not be in the interests of the community in Galashiels and the wider region as a whole.

#### **Our Company**

We are an independent mortgage brokerage that is currently based on George Street in Edinburgh, albeit I myself am a born and bred Borderer. Having been assisting clients in The Borders for many years, we have a large number of active clients across the region as a whole, indeed we have almost 400 at last count.

We are not looking to open a new regional branch of our current business (MOV8 Financial) in The Borders. We are, in fact, looking to fully relocate to Galashiels and be headquartered at 37 Bank Street. And in doing so we would rename the business Borders Mortgage Hub.

#### **Our Intention**

As indicated by use of the word "Hub" in our new name, we do not intend to operate in the manner of what could be perceived as a "traditional" mortgage broker. Our whole onus will be "no appointment necessary". Our message to consumers will be clear – walk in and you will be accommodated. The word "Hub" suggests a busy, open and welcoming environment, and that is exactly what we intend to create.

With this in mind, we specifically require a premises on a main and busy thoroughfare. We also require a premises with large windows that the public can see in, into an open and welcoming working environment. Our shop frontage (and branding as a whole) will have a modern look and feel, to create the impression that this is absolutely not a traditional professional service business. There will be no covered windows, no locked doors, no "by appointment only" signage, and no team members in suits & ties.



We also only intend to use local companies, based in the Borders, to provide the significant amount of initial work required to the property, and also the ongoing services that will be required. These works and services include:

Initial:

1. The trades required to convert the shop from its current condition into the functioning shop-cum-office that we require it to be – joiners, electricians, plasterers, plumbers, heating engineers, painters, flooring etc. These companies will be from various Border towns
2. A telecoms company, to install the required phone system. We have a company from Galashiels lined up for this
3. A technology company, to install our tech requirements. We have a company from Galashiels lined up for this
4. A signage company, to provide external and internal signage - We have a company from Galashiels lined up for this

Ongoing:

1. Telecoms support - We have a company from Galashiels lined up for this,
2. IT support - We have a company from Galashiels lined up for this,
3. Cleaning - We have a company from Galashiels lined up for this
4. Window Cleaning - We have a company from Galashiels lined up for this

### **The Premises**

37 Bank Street is a retail unit that has been empty since August 2016. It was first marketed by Bannerman Burke in September 2016. In that time there have been only 10-15 viewings. In 2017 a tentative offer was made, but this was withdrawn shortly thereafter. The business that made this offer was not of a retail or food nature, and would have required change-of-use consent.

### **Our Commitment**

We have made an offer to purchase the property, but it currently requires significant upgrading and reconfiguration to meet our requirements.

So, in purchasing a property as opposed to leasing one, we will incur significant initial costs. This is an indication of our long term commitment. We are fully relocating and rebranding an existing business that is already successful, and currently based at a location in Edinburgh that suits us. But we have a vision for Galashiels and the wider Borders community in general – we are coming to The Borders to provide a service to the people of The Borders.

Some have questioned why a mortgage brokerage would relocate from the thriving Edinburgh market. But we firmly believe that The Borders is underserved for what we will deliver in terms of a modern, open-door, welcoming brokerage. However, to make the move, our business model requires us to have premises of the type and in the location we are proposing to purchase.

To further demonstrate this, we have already held advanced discussions with Radio Borders to run a sustained advertising campaign, specifically designed around the onus of “no appointment necessary”. This demonstrates commitment to our vision, and believe that it will be the best way to spread the message that we are open to “walk in” customers. We will also run a social media campaign, across various platforms, to further spread this message.

## **The Benefits to Galashiels and The Borders as a Whole**

We already have a large number of clients in The Borders, from across the whole region. All of these clients have been generated by “word of mouth” or personal connections.

As it stands, we typically meet these clients at an out-of-town coffee shop or occasionally at their own home. Indeed, some of them travel to Edinburgh to meet us in our current office. So, at the moment, we are not bringing footfall to any Borders town centre. This obviously would change immediately upon opening the new premises.

Also, as well as bringing a large number of existing clients to the area, our new presence, radio advertising and social media campaign will clearly bring many new clients to Bank Street. And with more new clients comes more word-of-mouth, more referrals and yet more footfall to the area. And this is notwithstanding the fact that our staff would be purchasing goods and services from other local businesses on a regular basis.

Our clients typically will visit us on many occasions. What we do for clients is not “one-time transactional” – we assist first-time buyers who will then revisit when they move. We assist movers who move again. We assist those looking to purchase properties to let. And all of these clients typically return to us when their mortgage needs to be reviewed. Also, when a client is purchasing a new property it is not uncommon to meet them at least two or three times regarding that purchase alone.

We also have built, and are continuing to build, commercial relationships with other companies in The Borders, whose own clients will be referred to Borders Mortgage Hub for mortgage advice. These companies (solicitors, estate agents etc) are based in various towns throughout the Borders. And in referring clients to Borders Mortgage Hub, these clients will be coming to Bank Street for meetings, which potentially also means they will be drawn to the other shops and businesses in the Bank Street area and Galashiels as a whole.

As a company, we are planning to relocate to The Borders to serve the people of The Borders at a time when bank branches are closing. The closure of bank branches in the region has been well publicised and poorly received by the community as a whole. Banks obviously provide mortgages to many people in Galashiels and the whole Borders region. So we intend to provide a bespoke, personal and independent “walk in” service at a time when other, larger organisations are withdrawing from the region.

We will require staff, and will therefore create jobs for local people. We will require at least one new full-time employee from day one, and it is expected that more will be required in due course.

## **The Risks**

As far as we can see, there are none. We are not a “start up” business. We have been trading for nearly 7 years, and have a large and recurring client bank, both in The Borders and further afield.

We believe the area is badly underserved in terms of what we can offer and the way in which we will deliver our offering. We intend to be everything that a traditional financial services company is not – young, modern, welcoming, with a clear and well-known “walk in” policy.

And because of this we genuinely believe that we will bring significant footfall to the area, much more so that a service business that operates in the more “traditional” way.

## **Responses to Points Raised in the Planning Consultation Report**

We would like to respond to the points raised in the consultation report added to the SBC Planning Portal on 19<sup>th</sup> July:

***“The proposal falls within use class 2 and is therefore contrary to the prime purpose of Policy ED4”***

We at Borders Mortgage Hub understand this. However, “the policy does allow consideration of a number of other factors to be considered, and applied on a case by case basis” – we feel that, given how long the property has been empty and marketed, and given our offering explained above, we are exactly the type of company that that could be granted an exception.

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

37 Bank Street has not generated any footfall since August 2016. Also, we understand that a Dog Grooming business was granted “change of use” permission six or so weeks ago, and they are now based in the retail unit next to 37 Bank Street. With this in mind, we would question the fairness of the decision if we were not granted permission when another class 2 business recently was.

***“It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance”***

37 Bank Street has not generated any footfall since August 2016. Having read appendix 3 of the Pilot Study, there seems to be a particular aversion to financial, legal and accountancy firms while, at the same time, the rules seem to be relaxed for beauticians/nail salons etc. It is difficult to understand this discrimination against professional services. It is unlikely that a nail salon, for example, would generate more footfall than the kind of business that we have outlined.

***“No information has been submitted in respect of the marketing of the premises for the period it has been vacant. It is not, therefore, possible to assess this application in terms of the marketing history of the premises during this period”***

It has now been ascertained, from Bannerman Burke, that 37 Bank Street has been empty since August 2016 and actively marketed via various channels since September 2016, both for sale and let. During this lengthy period only 10-15 parties have viewed the property. A tentative offer was made in 2017, but this was withdrawn shortly thereafter. The business that made this offer was not of a retail or food nature, and would have required change-of-use consent.

***“Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive gardens”***

This is the reason that Borders Mortgage Hub wishes to be located here. We wish to move to The Borders in order to serve the people of The Borders. But our vision for a busy, “no appointment necessary” hub only works on a main thoroughfare, in a unit that can have an open-plan working area with large windows.

***“The Pilot Scheme, however, notes that financial/mortgage advisors offer an inactive frontage and low footfall generally”***

This is not an image we recognise in our business model. Our continued success will be built on having an active and engaging shop frontage, with good footfall. There are many businesses located within the core area that, I believe, will generate less footfall than Borders Mortgage Hub would.

Having assessed appendix 3 of the Pilot Study we find it disappointing that certain types of class 2 businesses are deemed a “better bet” than a walk-in mortgage shop. Having provided a more detailed explanation of our vision and intention has been provided, we hope that our proposal is seen as very different to the more traditional (and some would say “old fashioned”) impression of a mortgage advisory business.

***“If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. This would have major implications for the aspirations of ensuring a buoyant and healthy town centre”***

Given our plans outlined above, we genuinely believe that our offering would be an excellent addition to Bank Street, both in terms of footfall and also overall contribution to the current look and “perception” of the street.

**With regard to Policy ED4’s criteria against which proposals for Class 2 uses within core retail activity areas will be considered:**

- 1. How the proposed use would contribute to joint shopping trips** – We have an existing client bank that would come from all over the region to our office, often 2 or 3 times in short succession. These clients, and the many new clients that our presence and advertising campaigns would generate, are currently not providing footfall to anywhere at the moment, with the exception of the out-of-town coffee shop we use, or indeed George Street in Edinburgh. So, this additional footfall to Bank Street would potentially visit (and spend money in) other businesses and shops on the street and surrounding area.
- 2. Footfall Contribution** – The premises has not generated any footfall since August 2016. Indeed, we are the only company to make any firm and lasting offer on the property since it came to market in September 2016. On this basis *any* footfall generated by Borders Mortgage Hub is a bonus to the area. Our estimate is that over 1,000 visits per annum will be made to the premises, based on a very conservative 4 meetings per working day, and given that we will have 2 fully qualified and experienced mortgage advisers based at the premises, as well as support staff.

With a sustained advertising campaign highlighting our onus on “no appointment necessary”, our actual footfall could turn out to be well in excess of this figure.

- 3. Current Vacancy and Footfall Rates** – These can be found in the SBC’s Town Centre Core Activity Area Pilot Study Report, of 16/07/2018.
- 4. Longevity of Vacancy** – 37 Bank Street has been empty since August 2016.
- 5. Marketing History of Premises** – 37 Bank Street has been actively marketed by Bannerman Burke since September 2016. A “for sale/let” sign has been fixed to the premises for all of this time, the property is listed in the window of Bannerman Burke’s two shops in the



region. And the property has also been listed on Rightmove and Bannerman Burke's own website for all of this time, and Zoopla for some of the time.

6. **Ability to Retain Shop Frontage** – In order for our “no appointment necessary” ethos to work, the shop frontage will need to reflect this. It needs to be open, consumers and passers by need to be able to see in, and it needs to reflect the welcoming environment that awaits inside. To have shop-frontage that did not reflect our ethos would defeat the purpose of what we are trying to achieve.

### **To Conclude**

We at Borders Mortgage Hub firmly believe that we will bring a good level of footfall to Bank Street in Galashiels. And in doing so this will provide a first class and required service for the people of Galashiels and The Borders as a whole, while at the same time:

1. Choosing to invest in Galashiels and The Borders, as opposed to remaining in Edinburgh
2. Creating jobs for local people
3. Utilising local business for initial and ongoing services
4. Bringing to life a retail unit that has stood empty since August 2016
5. Bringing a service that will counter bank branch closures in the area

Yours faithfully,



Robin Purdie  
Borders Mortgage Hub

16 High Cross Avenue  
Melrose  
TD6 9SQ

12<sup>th</sup> August 2018

Clerk of the Local Review Body  
Scottish Borders Council  
Newtown St Boswells  
TD6 0SA

Dear Sirs,

**Ref: 18/00764/FUL 37 Bank Street, Galashiels, TD1 1EP**

Since our application, the additional info that we provided, and the subsequent refusal of our application, we wish to formally appeal this. Please therefore find the Notice of Review Form attached.

We also wish to point out that new information has since emerged regarding the previous use of the building. Prior to being owned by the current owner the property was at one time the office of Pike & Chapman solicitors, and prior to that was an office for the Pearl insurance company. Both of these are Class 2.

Also, the planning officer's report of 2<sup>nd</sup> August states that our proposal would not comply with the types of uses encouraged by the Council's Town Centre Core Activity Area Pilot Study. However, our application was submitted on 17<sup>th</sup> June 2018, prior to the Pilot Study report published on 16<sup>th</sup> July. This is a significant "shifting of the goalposts", post-application, which has clearly done more harm than good to our application. So we are struggling to see, in the interests of fairness, how applications made prior to 16<sup>th</sup> July can be measured against outcome of the Pilot Study.

We therefore believe that, at best, the Pilot Study should have no impact on our application. In the exact same way that it had no impact on the recently accepted application by the adjacent dog grooming company. Or, at worst, we should be refunded our application fee. It is simply not fair, in our opinion, for the findings of any study/report to have a bearing on the outcome of an application made prior to that report being published. Especially given the acceptance granted to the adjacent dog grooming company. And this is notwithstanding the reasons that we believe we should have been accepted initially:

1. The length of time that the unit has been empty and marketed
2. The creation of jobs
3. The investment in Galashiels from a company that wants to relocate there from Edinburgh
4. The footfall that we will bring to the area
5. The ways in which our presence will enhance Bank Street

We are hopeful that the barriers that we have incurred thus far can be lowered, and that the refusal can be overturned.

Should you require any additional information then just let me know.

Yours faithfully,

  
**Robin Purdie**  
**Borders Mortgage Hub**

**Attached:**  
Notice of Review form  
Supporting statement of 24<sup>th</sup> July

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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 : 18/00764/FUL**

**To : Robin Purdie 16 High Cross Avenue Melrose Scottish Borders TD6 9SQ**

With reference to your application validated on **18th June 2018** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

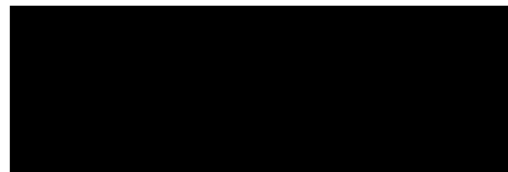
**Proposal : Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration**

**at: 37 Bank Street Galashiels Scottish Borders TD1 1EP**

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

**Dated 2nd August 2018  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



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



**APPLICATION REFERENCE : 18/00764/FUL**
**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
	Existing Layout	Refused
	Floor Plans	Refused
	Photos	Refused
colour reference	Specifications	Refused
photo mock-up	Other	Refused

**REASON FOR REFUSAL**

- 1 The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that it does not comprise a Class 1 (retail) or Class 3 (food and drink) use. It would also not comply with the types of uses encouraged by the Council's Town Centre Core Activity Area Pilot Study. The proposed development would potentially positively contribute to the town centre but, on balance, its contribution would not be sufficient to override its conflict with policy and potentially adverse effect on the town centre's core retail function

**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 :** 18/00764/FUL**APPLICANT :** Robin Purdie**AGENT :****DEVELOPMENT :** Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration**LOCATION:** 37 Bank Street  
Galashiels  
Scottish Borders  
TD1 1EP**TYPE :** FUL Application**REASON FOR DELAY:****DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
	Existing Layout	Refused
	Floor Plans	Refused
	Photos	Refused
colour reference	Specifications	Refused
photo mock-up	Other	Refused

**NUMBER OF REPRESENTATIONS: 0****SUMMARY OF REPRESENTATIONS:**

Consultations

Roads Planning Service: No reply

Community Council: No reply

Forward Planning Service: The site is within the Core Activity Area of Galashiels as defined by the Local Development Plan 2016. This application must therefore be assessed against Policy ED4. The proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis which in extreme instances may allow consideration of allowing other uses. Policy ED4 sets out the criteria. The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties. Class 2 uses will only be acceptable where there is a significant positive contribution to the core retail function

The Council's Town Centre Footfall Survey at this location (indicates a recent increase up to 8470 in 2017 from 6850 in 2013). The Council's most recent retail survey (Summer 2017) indicates that the Galashiels retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail

unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance.

The Council's retail survey, which goes back to 2006, shows that these premises have been vacant since late 2016. No information has been submitted in respect of the marketing of the premises for the period it has been vacant. It is not, therefore, possible to assess this application in terms of the marketing history of the premises during this period. Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive gardens. Vacancy rates on Bank Street have historically been low.

The Council agreed to approve a one year Pilot Scheme at a special meeting on 16 July 2017 for Galashiels and Hawick. This allows for a wider and more flexible range of uses to be supported. However, financial/mortgage advisors are noted as offering an inactive frontage and low footfall generally. This type of use would not be permissible within the Galashiels Core Activity Area under this Pilot Scheme. If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. It is not considered that this planning application meets the requirements of Policy ED4 (and the Pilot Scheme) and should therefore be refused.

Flood Protection Service: The site is at risk from a flood event with a return period of 1 in 200 years. Notwithstanding this, this is a small scale change of use that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems, and he would not oppose it on flooding grounds. He would strongly encourage the applicant to sign up free to the Council's "Galashiels Flood Warning Group". A number of flood protection products such as floodgates and air-vent covers are also commercially available for the existing property

Heritage and Design Officer: Whilst he generally has no objections to the principle of the proposed works, the current application is light on detail. The existing external stone shop front has been partially painted in the past and is currently a mid-green shade. His understanding is that this painted stone will be repainted a dark grey colour but it is not clear from the application what is the extent of this repainting. There is information of proposed signage, but it is not clear where this is to be located.

## **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

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

SPG Shop Fronts and Shop Signs 2011  
Town Centre Core Activity Area Pilot Study

Scottish Planning Policy 2014

**Recommendation by** - Carlos Clarke (Lead Planning Officer) on 2nd August 2018

Site and application description

This application seeks consent to convert a vacant shop to a 'mortgage shop'. This would be a professional service categorised within Class 2 of the Use Classes (Scotland) Order 1997 (as amended). The use would operate on a 'walk-in, no appointment necessary basis'. A related LBC application (18/00785/LBC) has been submitted that includes repainting of the shop front dark blue - that aspect also requires Planning Permission, and requires consideration here.

In support of this application, the applicant has provided statements, initially with the application, and subsequently in response to matters raised by this service. These have been considered in full, can be viewed on Public Access and are referred to in this assessment where necessary.

The property is a ground floor shop, with symmetrical frontage, within a 2 ¾ storey Victorian building with a stone frontage onto Bank Street. The building is Category C Listed and located within the Conservation Area.

#### Principle

The property is within the town centre. Policy ED3 supports a wide range of uses appropriate to the town centre. This is a use appropriate to a town centre location, capable of contributing positively to its overall character, mixed use nature and overall vitality and viability. However, the property is also within the Core Activity Area where uses other than Class 1 (retail) and 3 (food and drink) are to be refused under Policy ED4, unless the proposal can be assessed as contributing significantly to the town centre's core retail function. This proposal would be a Class 2 use and, therefore, it would be in conflict with Policy ED4 since it is within neither Class 1 nor 3. The test is whether the proposal would make a significant positive contribution to the core retail function of the town centre. To assist with this test, Policy ED4 identifies six criteria to apply to Class 2 uses, and these are considered in turn below. In making this assessment, a considerable material consideration is the Council's recently adopted Pilot Study which promotes other uses not falling within Class 1 or 3:

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

A Class 2 use is generally considered to be less lively than a Class 1 retail or Class 3 food and drink use in terms of contributing to a visitor's shopping experience within a town centre. The Council's Pilot Study recognises that 'financial/mortgage advisors' will provide some linked trip potential, but it identifies this type of use as not being acceptable within the Core Activity Area overall. The applicant proposes a 'no appointment' basis of operating. That has the potential to attract a shopper who may combine a visit with shopping. To some extent, therefore, this proposal may contribute to joint shopping trips, and this particular business may do so more than a traditional mortgage advisor. However, if consent were granted, the Council could not reasonably control the operations of the business, so it would be a matter for the applicant as to how clients use the business's services. Each business will provide different levels of footfall so comparing is difficult. Ultimately, however, the proposal will likely contribute to joint shopping trips to a lesser degree than Class 1 or 3 uses, but perhaps comparatively with some other uses supported by the Pilot Study, for example, an estate agent.

#### 2. Footfall contribution

This proposal will generate footfall which, as the applicant notes, the vacant shop currently does not do. However, an assessment of its contribution in terms of footfall cannot be reasonably made against a vacant shop, but rather the lawful use of the premises, which is currently Class 1 retail. The Council's Pilot Study judges that this type of use will generate low footfall generally. The applicant states that, on a conservative level, this proposal could generate 1000 visits per year, on a conservative estimate of four meetings per day. Added to that will be footfall from staff and others. This footfall contribution, while welcome, will be lower than that of a shop or café. While comparisons with uses that are accepted by the Pilot Study, such as nail salons and beauticians, are noted, these provide a personal service that cannot be provided remotely. While there may be a significant one-to-one element to this particular business, it can also operate on a basis that does not essentially require personal contact. The same, though, could also be said for other uses accepted by the Pilot Study, such as a bank, betting office and estate agents. However, these all provide different services and will contribute differently to the town centre. Ultimately, I would conclude that this proposal will be a welcome addition to the town centre in terms of footfall, but not likely a significant one.

#### 3. Current vacancy and footfall rates

The Forward Planning Service outline the vacancy levels and footfall rates above. As noted, vacancy levels have fallen, and footfall has increased. Vacancy rates in Bank Street are historically low. This remains the case now. That said, the Council's introduction of the Pilot Study recognises that more progress needs to be made. However, the level of vacancy in Bank Street is not significant itself, and the Pilot Study does not consider that the flexibility to be provided to uses other than Class 1 or 3 needs to, at this time, extend to mortgage advisors. The Pilot Study has only just been introduced, and it requires time to establish if it will have a marked impact on vacancy rates in the town..

#### 4. Longevity of vacancy



The property has been vacant since August 2016. This period of vacancy is a concern, albeit not unprecedented. The Pilot Study that has been introduced may result in greater interest in the premises from uses that are accepted by the study.

#### 5. Marketing history of premises

The property has been marketed for sale and let since September 2016, with a board on the premises and website marketing. It has attracted 10-15 viewings, and a withdrawn offer from a barber (a Class 1 use). The applicant states that the seller considers that retailers and café operators do not feel the property is suitable for their requirements, most likely due to the modernisation required. This, however, is a matter for the owner to resolve, and is not a consequence of planning policy. It is noted that the applicant will invest in the property, and that will overcome this aspect. However, at this early stage of the Pilot Study, it would be premature to approve this use without other uses accepted by the Pilot Study being given the opportunity to consider the potential of the property.

#### 6. Ability to retain shop frontage

The applicant has advised that his intention is to keep the frontage welcoming. The proposal will result in redecoration of the property frontage and no alterations to its frontage are necessary. In that sense, it will continue to contribute positively to the town centre. The proposal is not likely to be as lively as a shop or café, but it may not be significantly different to the visual contribution made by some uses accepted by the Pilot Study, such as a bank or a beauticians.

#### Summary

Ultimately, this development would be a positive contributor, resulting in investment in the shop and the town generally. The business model the applicant proposes may also result in a livelier, more welcoming premises than a traditional mortgage advisor may provide. However, how the applicant operates the business is not something this authority can reasonably control. This proposal is for a Class 2 financial service, and would be a use that the Pilot Study specifically does not encourage. Though the property's continued vacancy is a concern, the Council's Pilot Study may broaden the potential for finding a new occupier amongst those uses the Pilot Study endorses.

The similarity between this proposed uses and uses which the Pilot Study accepts, are acknowledged. This proposal has elements which compare favourably with those uses, however, none which would appear to be overwhelming. The Pilot Study excludes this specific use and, though the applicant's business model may set this proposal apart from traditional mortgage advisors, it is the use that seeks consent, not the business model. Though the applicant has drawn attention to the Council's approval of a dog groomer's adjacent this property (which is also excluded by the Pilot Study), that was subject to some materially different considerations. In particular, it was approved prior to the Pilot Study's adoption

Any continued vacancy of the premises is regrettable, however, it would appear to be premature to permit a use which the Pilot Study is not trying to attract to the Core Activity Area at this time. There is no clear reason why a use supported by the Pilot Study, such as an estate agents, nail salon etc could not operate from this premises. On balance, therefore, while the proposal would indeed be a positive contributor to the town centre as a whole, it is not considered that it can be supported within this prominent unit within the Core Activity Area at this time.

#### Other matters:

##### Services and parking

Mains services are expected to be available, and existing bin storage arrangements will be in place. Given the town centre and established use, no parking is necessary

##### Flood risk

The property is at potential risk of flooding but not to the extent that consent should be refused, given the established and proposed uses of the premises. An informative note that reflects our Flood Protection Officer's comments could be applied to a consent, were it to be granted.

#### Amenity

The proposed use will not conflict with the amenity of neighbouring properties or operation of other businesses

#### Alterations

The alterations to the exterior are limited to repainting the shop front dark blue. This will be a sympathetic redecoration on the basis that only the existing painted elements are repainted. A condition similar to that imposed on 18/00785/LBC could be imposed here

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

The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that it does not comprise a Class 1 (retail) or Class 3 (food and drink) use. It would also not comply with the types of uses encouraged by the Council's Town Centre Core Activity Area Pilot Study. The proposed development would potentially positively contribute to the town centre but, on balance, its contribution would not be sufficient to override its conflict with policy and potentially adverse effect on the town centre's core retail function

#### **Recommendation:** Refused

- 1 The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that it does not comprise a Class 1 (retail) or Class 3 (food and drink) use. It would also not comply with the types of uses encouraged by the Council's Town Centre Core Activity Area Pilot Study. The proposed development would potentially positively contribute to the town centre but, on balance, its contribution would not be sufficient to override its conflict with policy and potentially adverse effect on the town centre's core retail function

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

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TOWN AND COUNTRY  
PLANNING (SCOTLAND) ACT  
1997 (AS AMENDED)

For Office Use Only:  
Application Number:

Date Registered:

# PLANNING APPLICATION

1. Name and Address of applicant	Name and Address of Agent
ROBIN PURDIE, 16 HIGH CROSS AVENUE, MGLROSE Post Code TD6 9SA Tel. No. [REDACTED] E-mail address [REDACTED]	N/A. Post Code Tel. No. E-mail address

2. Full Postal Address of Application Site (indicated in red on the site plan)
37 BANK STREET, GAWASHIELS, TD1 1EP
Is this address a flat? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

3. Brief Description of Proposed Development
CHANGE OF USE FROM RETAIL INTO "WALK IN" MORTGAGE SHOP. OPEN PLAN "WALK IN" OFFICE WITH 2 SMALL CLIENT MEETING ROOMS CREATED TOWARDS THE BACK OF THE SPACE.

4. Type of Application (tick <u>one</u> box only)
(a) Full application for new building works and/or a change of use and/or engineering works <input checked="" type="checkbox"/>
(b) Full application for a change of use not involving any building works <input type="checkbox"/>
(c) Planning permission in Principle <input type="checkbox"/>
(d) Approval of matters specified in conditions (pursuant to a Planning Permission in Principle) <input type="checkbox"/>
(e) Application for removal or variation of a condition on a planning permission previously granted (Please indicate reference number of previous application) <input type="text"/>
(f) Application for renewal of a limited period permission (Please indicate reference number of previous application) <input type="text"/>
(g) Application for renewal of an unimplemented permission You need only answer Questions 17 and 18 (Please indicate reference number of previous application) <input type="text"/>

5. Applications for Matters Specified in Conditions (if you ticked (d) in Q.4, please complete)
(a) State the reference number and date of the planning permission in principle .....
(b) State which of the conditions are submitted for approval as part of this application: All Conditions (please tick) <input type="checkbox"/> or Condition Numbers <input type="text"/>



## 6. Pre-Application Discussion and Consultation

(a) Has assistance or prior advice been sought from Scottish Borders Council about this application?

Yes ☐

No ☒

If yes, please complete the following information about the advice you were given:

Officer Name:

Date:

Council Reference:

(b) Has Pre-Application Consultation taken place (for MAJOR developments: See Notes for Guidance)?

Yes ☐

No ☒

If Yes, a Pre-application Consultation Report should accompany this application

## 7. Site Area

..... hectares

## 8. State whether applicant owns or controls any adjoining land (edged in blue on submitted plans)

Yes ☐

No ☐

## 9. Existing/Proposed Uses

Please indicate all existing and proposed uses that are the subject of this application:

Existing	Proposed
RETAIL SHOP, BEEN EMPTY FOR SALE SINCE SEPT 2016	MORTGAGE SHOP WITH ONLY AN "NO APPOINTMENT NECESSARY"

## 10. Commerce and Business

### (A) Floorspace

Please indicate the total amount of floorspace (in square metres) to which this application relates

Existing -

CIRCA 20.31 sqm

Proposed -

SAME - NO CHANGE

### (A) Employment

Please indicate the number of staff employed (including part-time):

Existing -

N/A

Proposed -

4 - 5

### (B) Traffic Flow

What is the anticipated traffic flow to the site during a normal working day? (No. of vehicles moving in and out of the site) (Include all vehicles except those used by individual employees driving to work)

Existing -

N/A

Proposed -

N/A

### (C) Industrial Processes

In the case of industrial development, please give a description of the processes to be carried on and of the end products, as well as the type of machinery to be installed:

N/A

### (D) Storage of Hazardous Substances

Will the proposal involve the use or storage of any materials of a type and quantity defined as hazardous substances? If YES, please state materials and quantities below:

N/A

### 11. Car Parking

Please indicate car parking facilities/spaces:

Existing: *NIL*

Proposed: *NIL*

### 12. Accesses and Rights of Way (Please tick those that apply)

- (A) There will be no new access to a highway (either vehicle or pedestrian), no alteration to an existing access to a public road and no alteration to any public right of way or other public path ☒
- (B) There will be a new or altered access to a public road      Vehicular ☐      Pedestrian ☐
- (C) A public right of way or other public path will be affected by the proposed development ☐

### 13. Trees

Will the proposed development involve the felling of any trees?  
(If YES, please indicate positions on plan)

Yes ☐      No ☒

### 14. Drainage and Water Supply

(A) Please state how surface water will be disposed of: *N/A.*

(B) How will foul sewage be dealt with?

Mains sewer ☒      Septic Tank and Soakaway ☐      Other (Please specify).....

(C) From where will the proposed development receive its water supply?

Public mains supply ☒      Private source ☐

Where the water supply is from a private source, has any testing or analysis been undertaken?

Yes ☐ *N/A*      No ☐

Please indicate position of source on location/site plan, and where possible provide details of the source (e.g. borehole, spring etc.), and of any related pipework or apparatus

### 15. Materials

Please state type and colour of materials to be used (if known)

	EXISTING	PROPOSED
Exterior Walls		
Roof		
Windows		

### 16. Additional Information

Is there any additional information you wish to give in support of this application?

*PLEASE SEE NEXT PAGE*

I WILL CALL TO  
PAY THIS

### 17. Declaration

I hereby apply for planning permission and declare that, to the best of my knowledge, the information contained in this application and on the submitted plans is correct.

I attach FOUR copies of the application forms and enclose the application fee of £....., together with:

- ☐ Four sets of the necessary plans and drawings
- ☐ In the case of MAJOR developments, a Pre-Application Consultation Report
- ☐ A Design and Access Statement or Design Statement, where the application site is situated within a conservation area, historic garden or designed landscape, a National Scenic Area, the site of a scheduled monument or the curtilage of an A Listed Building (see Notes for Guidance for further information)

Signed

behalf of

Date

12/6/18

### 18. Please complete Certificate A and Certificate B (please tick ONE box in each)

#### CERTIFICATE A under Section 35 of the Town and Country Planning (Scotland) Act 1997, as amended

I certify that:

- ☐ At the beginning of a period of 21 days ending with the date of this application, nobody other than the applicant was the owner<sup>1</sup> of all of the land to which the application relates
- OR
- ☒ The applicant has given the required notice to everyone who, at the beginning of the period of 21 days ending with the date of the accompanying application, was the owner<sup>2</sup> of any part of the land to which the application relates, as listed below:

Owner's Name	Address at which notice was served	Date on which notice was served
ALISTAIR DORWARD	WOODLEA, ROSMUNDA BRIDGE HAWICK, TD9 7HH.	12/6/18

Signed

on behalf of

Date

12/6/18

#### CERTIFICATE B under Section 35 of the Town and Country Planning (Scotland) Act 1997, as amended

I certify that:

- ☒ At the beginning of a period of 21 days ending with the date of this planning application, none of the land to which the application relates is, or is part of, an agricultural holding;
- OR
- ☐ The applicant has given the required notice to every person other than the applicant who, at the beginning of 21 days ending with the date of the application, was a tenant of an agricultural holding on all or part of the land to which the application relates, as follows:

Tenant's Name	Address at which notice was served	Date on which notice was served

Signed

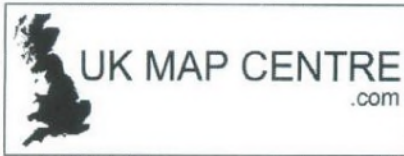
on behalf of

Date

12/6/18

<sup>1</sup>An owner includes anyone with a lease on the land that has at least seven years left to run





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Bank Street

**Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997**

**REFUSED**

**subject to the  
requirements of the  
associated Decision  
Notice**



CURRENT LAYOUT

Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

REFUSED

subject to the  
requirements of the  
associated Decision  
Notice

1.9m

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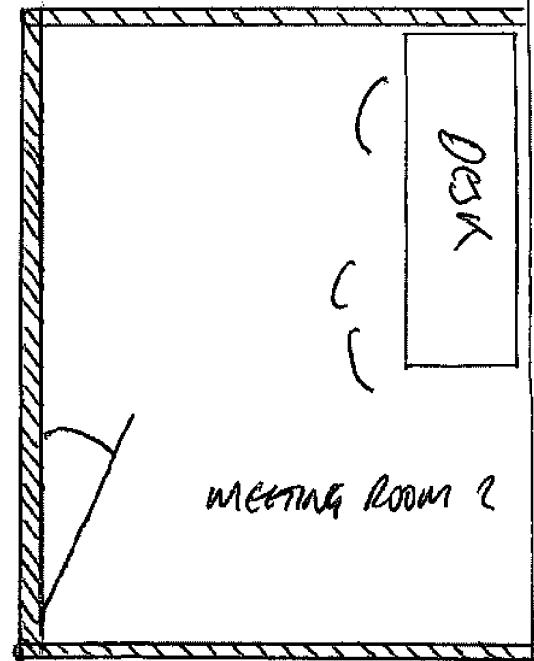
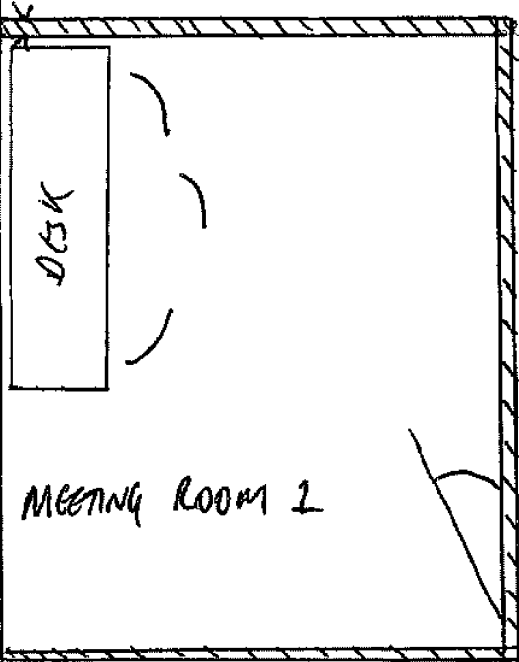
PROPOSED LAYOUT

Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

REFUSED

subject to the  
requirements of the  
associated Decision  
Notice

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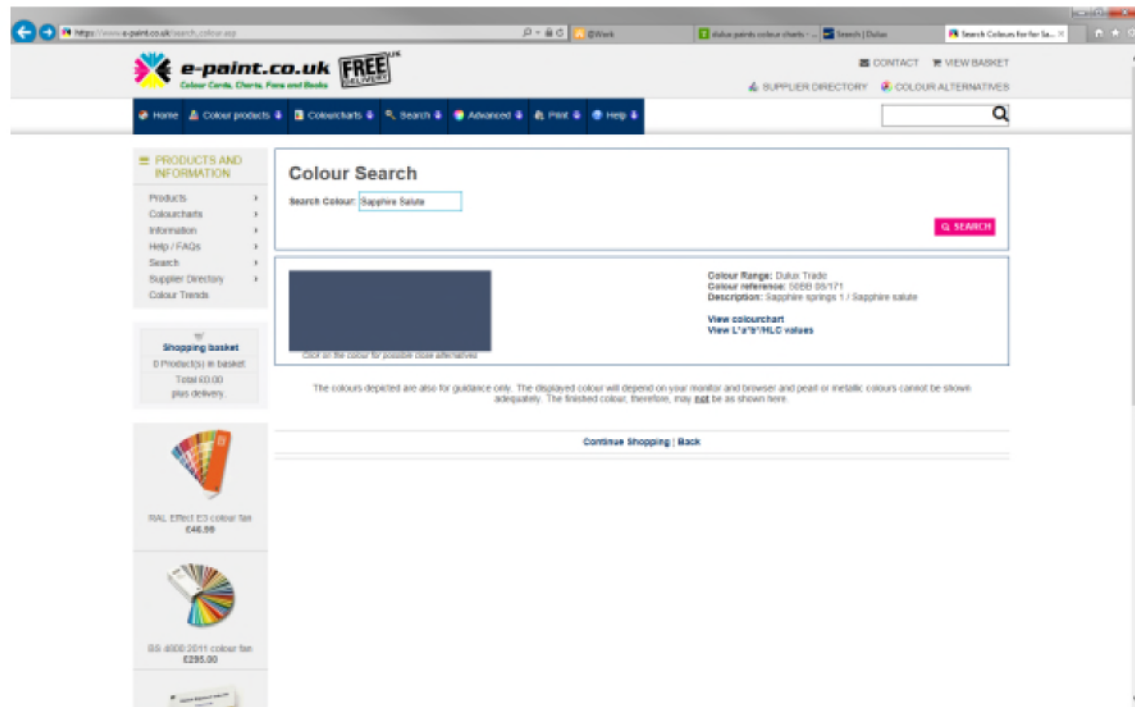


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18/00764/FUL  
02/08/2018



Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

**REFUSED**

subject to the  
requirements of the  
associated Decision  
Notice



BRAND IDENTITY STYLING EXAMPLES -  
USING LOGO OPTION 1

HUB / SHOP SIGNAGE

Scottish Borders Council  
Town And Country  
Planning (Scotland) Act  
1997

**REFUSED**

subject to the  
requirements of the  
associated Decision  
Notice

18/00764/FUL  
02/08/2018

HUB / SHOP WALL GRAPHICS EXAMPLE



OTHER BRANDED ITEMS



**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 17/01704/FUL

**APPLICANT :** Mr S Wilson

**AGENT :**

**DEVELOPMENT :** Change of use from retail to dog grooming practice

**LOCATION:** 38 Bank Street  
Galashiels  
Scottish Borders  
TD1 1EP

**TYPE :** FUL Application

**REASON FOR DELAY:**

---

**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

Consultations:

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

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

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

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

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

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

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

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

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

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

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

Scottish Planning Policy 2014

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

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

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

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

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

## 2. Footfall contribution

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

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

## 3. Current vacancy and footfall rates

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

## 4. Longevity of vacancy

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

## 5. Marketing history of premises

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

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



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

#### 6. Ability to retain shop frontage

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

#### Services and parking

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

#### Flood risk

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

#### Amenity

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

#### Alterations

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

#### Conclusion

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

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

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

**Recommendation:** Refused

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

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



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 18/00007/RREF

**Planning Application Reference:** 17/01704/FUL

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

**Location:** 38 Bank Street, Galashiels

**Applicant:** Mr S Wilson

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**DECISION**

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

**DEVELOPMENT PROPOSAL**

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

**Plan Type**

**Plan Reference No.**

Location Plan

**PRELIMINARY MATTERS**

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

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



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

## **REASONING**

The determining issues in this Review were:

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

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

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

### **Other Material Considerations**

- Scottish Planning Policy 2014

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

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

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

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

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

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

## **CONCLUSION**

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

## **DIRECTION**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITION**

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

Reason: To ensure that the use is restricted to that applied for.

## **INFORMATIVE**

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

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### **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.

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

**Date.....** 19 April 2018

## Town Centre Core Activity Area Pilot Study



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Appendices

Appendix 1 – Policy ED4 Core Activity Areas in Town Centres

Appendix 2 – Use Classes Order 1997

Appendix 3 – Potential other uses within Core Activity Areas

## Purpose of Study

Retailing patterns continue to fluctuate and the role of town centres is changing (e.g increase of online shopping, competition from larger national retailers). The impacts of the current challenging economic climate are being felt across the country and these trends are not unique to the Scottish Borders. Planning policy must adapt to these changing circumstances. In recent years the Council has amended the town centre policy in the Local Development Plan (LDP) to adapt to such changes and whilst these changes have helped it is acknowledged a further review of relevant planning policy could be tested via this pilot study.

There are specific immediate concerns regarding Hawick and Galashiels where reduced footfall and vacancy rates have had a detrimental impact on how these town centres have performed. This is of particular concern as Hawick and Galashiels are the 2 largest towns within the Scottish Borders and have a strategic economic and social significance for the region.

The primary purpose of this study is to examine ways to revitalise and reinvigorate the town centres of Hawick and Galashiels by considering options which provide more flexibility to LDP policy ED4 (Core Activities in Town Centres) which protects prime retail frontage areas within these towns. It suggests a number of options, identifying potential advantages and disadvantages for each.

In addition all Scottish Border towns the study states, with reference to considering the longevity of vacancy of premises, that if premises have been vacant for 6 months and sufficient evidence is submitted which confirms it has been adequately advertised for a substantial period of that time, then that will carry greater weight in the decision making process. The study also gives guidance to factors to be considered in respect of any “significant positive contribution” a proposal may have towards the performance of the core activity area.

In order to monitor the impacts of the courses of action it is considered the amendments should operate as a pilot scheme for a trial period of one year. This will allow the opportunity to draw conclusions as to the success or otherwise of these amendments and the findings can be brought forward to be considered as permanent actions within the proposed new LDP2. Whilst it would be hoped that any policy amendments may help vibrancy within these town centres, it must be acknowledged that there are a number of other external factors outwith the remit of the planning system which will influence their performance.

## Policy Background

Retailing is a feature of daily life providing jobs and services in the local community. Retail development in particular can act as a catalyst to further investment in addition to creating employment opportunities and associated growth. The Scottish Government acknowledges that town centres are a key element of the social and economic fabric in Scotland. Scottish Planning Policy (SPP) encourages the improvement of town centres to create distinctive and successful places which are a focus for a mix of uses including retail, housing, leisure, entertainment, recreational, cultural entertainment and community facilities. The Scottish Government’s Town Centre First Principle 2014 asks that

government, local authorities, the wider public sector, businesses and communities put the health of town centres at the heart of proportionate and best-value decision making, seeking to deliver the best local outcomes regarding investment and de-investment decisions, alignment of policies, targeting of available resources to priority town centre sites, and encouraging vibrancy, equality and diversity

The adopted SESplan Strategic Development Plan (SDP) 2013 acknowledges that town centres make a significant contribution to the SDP area as centres for employment, services and a focus for civic activity and identifies a network of centres.

#### *LDP Policy ED4 – Core Activity Areas in Town Centres*

The adopted LDP 2016 allows a wide range of uses within town centres. However, within the **central core area of these town centres**, policy ED4 - Core Activity Areas in Town Centres seeks to encourage commercial uses which increases footfall and in turn prevents the gradual loss of essential town centre activities which are important to the vitality and viability of the town centres. In order to achieve this policy ED4 seeks to safeguard shop uses which generate most footfall, and food and drink outlets which are considered appropriate complimentary uses. The policy does however offer a degree of flexibility which can be applied to decision making across the Scottish Borders for any relevant planning application. This allows consideration of, for example, how the particular town centre is performing, cognisance of current vacancy and footfall rates, opportunities for joint shopping trips and the longevity of vacancy and marketing of the vacant retail unit. If a town centre is performing well there may be little justified need to lose retail premises. However, if there are significant factors which result in town centres underperforming, there may be a case for allowing an alternative use. This policy approach is carried out by other planning authorities within Scotland. Policy ED4 can be viewed in Appendix A.

**It must be noted that this existing policy ED4 approach relates to ground floor premises only within core activity areas, as a wide range of uses would be acceptable in principal on upper floors.**

#### *Use Classes Order 1997*

The operation of activities from buildings and their impacts, both positive and negative, can vary considerably depending upon the nature and characteristic of each particular use. In the case of activities within town centres certain uses can generate more footfall which will increase the vibrancy of town centres. Although policy HD4 seeks to protect shop uses, cafes and restaurants, other uses could be supported in some instances, largely in instances taking account of the current performance of the town centre in question. This consideration requires reference to understanding of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (UCO).

The UCO identifies different uses within specific classes mainly governed by the characteristics of their operations. Appendix 2 highlights these classes, examples of uses within them, instances where planning consent will / will not be required between the classes and a guidance note. In general terms any change from one use class to another constitutes development and planning permission will normally be required. Where the existing and proposed uses are within the same class this does not constitute development and permission normally will not be required.

Any uses outwith the specified use classes are defined as non-classified Sui-Generis. Planning permission is required for any change of use involving a Sui Generis use.

In terms of the use classes within the UCO, shops fall within class 1 and food and drink outlets fall within class 3. Whilst policy ED4 consequently seeks to protect and encourage these uses Appendix 3 suggests other potential uses which could be considered appropriate uses as part of the pilot study. This will be referred to further within this study report. Appendix 3 also includes consideration as to whether the frontage would be considered to be active or inactive. Active frontages are generally regarded as better designed and attractive frontages which can significantly affect public perception of successful town centres in terms of safety, comfort, sociability and liveliness.

### Monitoring of Town Centre Performance

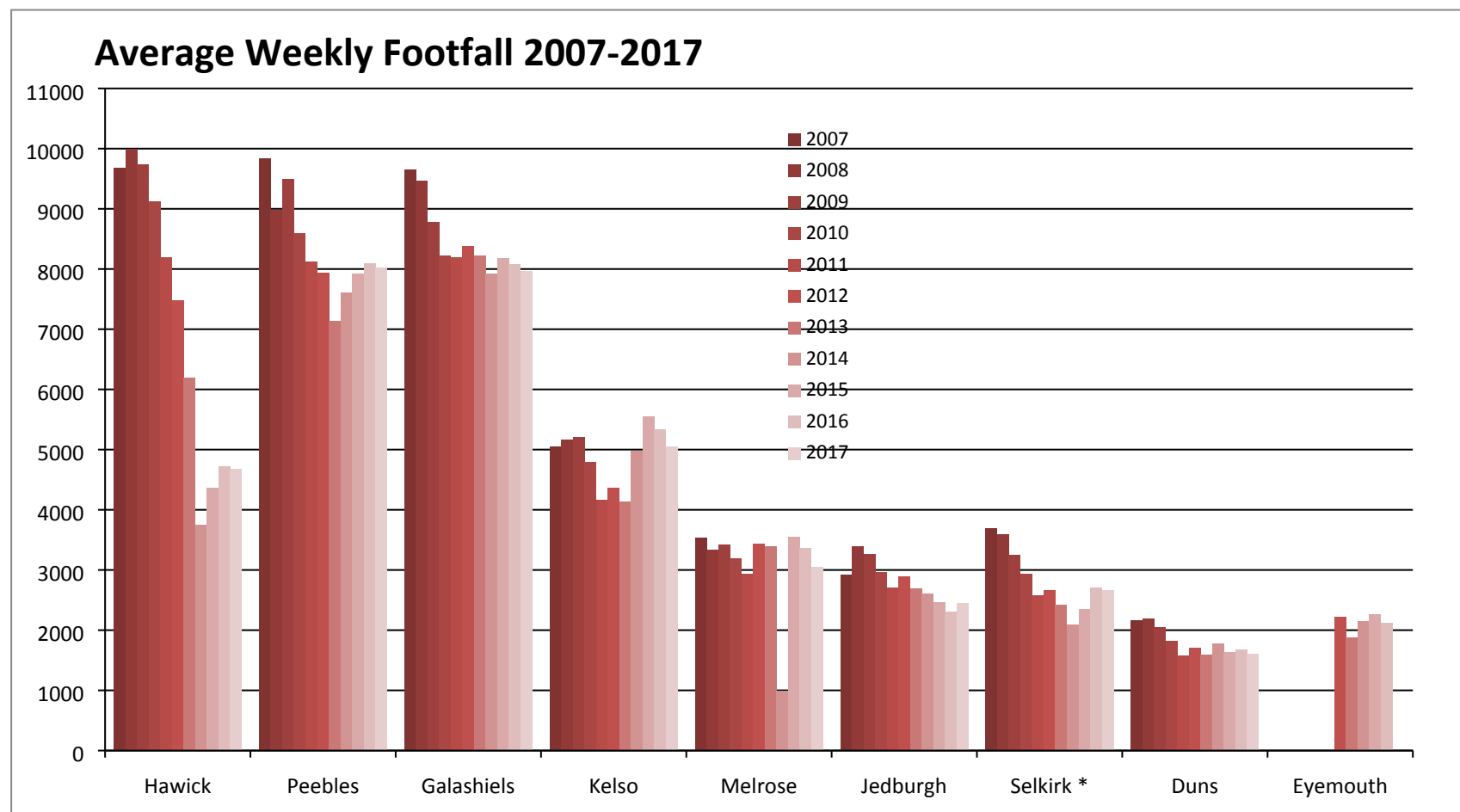
The Council carries out a series of annual surveys to monitor the performance of town centres within the Scottish Borders. These include the monitoring of vacancy rates and pedestrian footfall studies. The most recent outputs from 2017 surveys can be viewed in figures 1, 2 and 3. The surveys are snapshots in time and can obviously change within a short period of time. The national vacancy rate is currently 12% which is the same as the Scottish Borders. These outputs are important to take cognisance of when considering planning applications for proposals within core activity areas / town centres and when considering amendments to new planning policy. These figures are also relevant to this pilot study. In general it can be noted that Hawick and Galashiels are underperforming. This confirms the interest in seeking an amendment to current practice in dealing with proposals within core activity areas via this pilot study.

**Fig 1 - Town Centre Vacancy rates (winter 2017)**

Town	Number of units	No of Vacant Units	%age of vacancy
Hawick	258	37	14
Peebles	144	12	8
Galashiels	243	37	15
Kelso	166	10	6
Melrose	80	6	8
Jedburgh	89	12	13
Selkirk	88	12	14
Duns	61	5	8
Eyemouth	67	5	7



Fig 2 – Average Weekly Footfall



**Figure 3 - Overall Footfall per Surveyed Town, per Year, 2007 Onwards**

Note: The data in this table shows the weekly footfall count.

Settlement	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	% change 2016 to 2017	% change 2007 to 2017	% change 2012 to 2017
Hawick	9680	9990	9740	9130	8190	7480	6200	3750	4360	4730	4680	-1	-52	-37
Peebles	9840	8980	9500	8590	8120	7940	7140	7610	7930	8100	8020	-1	-18	1
Galashiels	9650	9470	8780	8220	8190	8380	8220	7930	8180	8080	7970	-1	-17	-5
Kelso	5050	5170	5210	4790	4170	4360	4130	4980	5550	5340	5050	-5	0	16
Melrose	3540	3340	3420	3200	2930	3430	3390	990	3550	3370	3050	-9	-14	-11
Jedburgh	2920	3400	3260	2960	2710	2900	2700	2610	2460	2310	2450	6	-16	-16
Selkirk *	3690	3590	3250	2930	2580	2660	2420	2090	2350	2710	2670	-1	-28	0
Duns	2160	2200	2050	1820	1580	1710	1600	1780	1630	1680	1610	-4	-25	-6
<b>TOTAL</b>	46530	46140	45210	41640	38470	38860	35800	31740	36010	36320	35500	-2	-24	-9
% Change	-	-0.8	-2.0	-7.9	-7.6	1.0	-7.9	-11.3	13.45	0.86	-2.26			
				<b>Eyemouth</b>		2220	1880	2150	2270	2120	2010	-5		-9
				<b>TOTAL (inc Eyemouth)</b>		41080	37680	33890	38280	38440	37510	-2		
				% Change (inc Eyemouth)		-	-8.3	-10.1	13.0	0.4	-2.4			

\*Figures have been derived from Friday survey as weekend survey clashed with public events

In order to consider the most appropriate means of taking forward the pilot study for Hawick and Galashiels 4 no options were considered for each town. Retaining the current status quo was not considered to be a realistic given the desire to implement some type of alternative option as part of the pilot scheme. These options are

1. Reduce the size of the core activity area
2. Retain the core activity area but allow a more flexible approach to potential uses
3. Amalgamation of options 2 and 3
4. Remove the core activity area completely

Advantages and disadvantages for each of these options will be considered separately for both Hawick and Galashiels

## Hawick

Prior to identifying the options for Hawick consideration must be given to the extent of the current core activity area, where the current vacant units are and what the range of uses currently within the town centre. These are identified in figure 4. Similarly the strengths, weaknesses, opportunities and threats for Hawick town centre should be identified and considered. These are shown in fig 5. The findings of figs 4 and 5 will be taken on board when considering the range of options.

**Fig 4 – Current uses and vacancy rates within Hawick Town centre (winter 2017)**

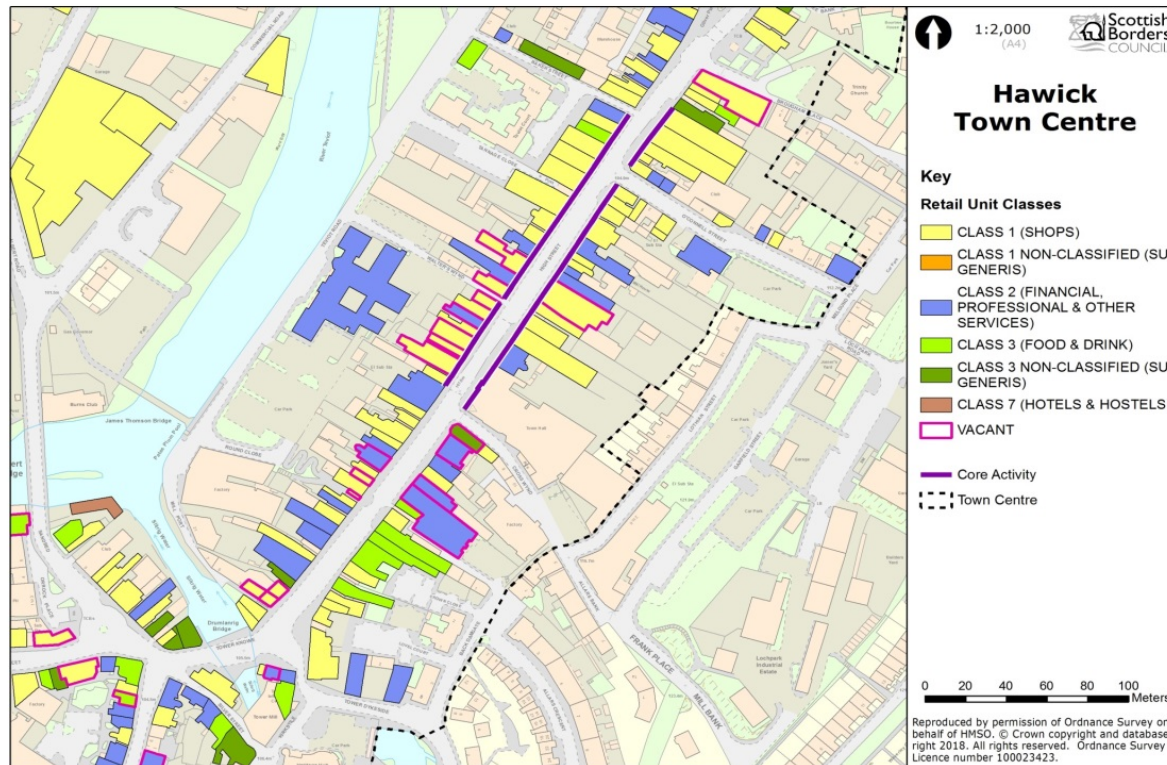


Fig 5 - SWOT Exercise for Hawick Town Centre

Strengths	Weaknesses
Reasonably wide range of services within the town centre	A number of run down buildings on street frontages which do not encourage third party investment
Presence of cultural and community facilities e.g. cinema, library, Heart of Hawick	Core activity area may be too stringent in controlling ground floor units in current economic climate
Heart of Hawick is a strong focal point which revitalises attractive listed buildings as a tourist asset	Perceived view that Hawick town centre requires more regeneration than any other town in the Scottish Borders
Attractive key buildings within town centre, many of which are listed. Conservation Area ensures higher standard of built environment	Core activity area may be considered to be too large to be sustainable for Hawick
Recent retail developments in Commercial Road help stem the flow of consumer spending outwith Hawick	Lack of cycling provision
One way system has eased traffic congestion and flows	High density and high quality built heritage of buildings offer redevelopment / expansion challenges
Parking is adequate	Flood risk to town centre
	Many vacancies in High St are located within 2no central blocks
	One way system does not draw visitors from south-west i.e. tourists coming into the town from the south
	Footfall continues to decline
Opportunities	Threats
CARS scheme will help regenerate built environment within the town centre	Recent retail developments in Commercial Road may have an adverse impact on retail outlets in Hawick High Street
Hawick Action Plan offers redevelopment opportunities	Without further action town centre is likely to under perform further
Promotion of Borders Railway II through Hawick to Carlisle	Flood risk to town centre
Potential future Borderlands / Agency funding	Competition from online shopping which will reduce visits to town centre

In order to consider appropriate action to address issues with the current core activity area in Hawick the following options are discussed :

**Hawick Option 1 – Reduce Size of Core Activity Area** (This can refer to a series of options such as, for example, removing areas where vacancy rates are highest, buildings are most unattractive, etc ....)

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Reducing the size of the core activity area would allow some flexibility to provide a greater no of other uses within the centre of the town</li> <li>More emphasis would be placed on protecting the remaining core activity area for Class 1 and 3 uses</li> <li>Opportunities to remove some of the longer term vacant premises and those in a poor condition from the core activity area may attract a wider range of potential development opportunities</li> </ul>	<ul style="list-style-type: none"> <li>The Hawick core activity area has been considerably reduced in size previously and it is questionable whether this further reduction in size will produce any significant improvements to the town centre performance</li> <li>Identifying which parts of the core activity area could be removed and have resultant clear improvements on the town centre performance is challenging</li> </ul>

**Hawick Option 2 – Retain Core Activity Area but allow more flexible approach to potential uses.** (This could involve the support for some Class 2 (Financial, Professional and other Services) which are considered to generate notable footfall, Class 10 (Non-residential Institutions) and Class 11 (Assembly and Leisure) uses – see Appendix 3)

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>This more flexible approach would allow a wider range of uses which should help town centre performance</li> <li>Opportunities to allow a wider range of uses for some of the longer term vacant premises and those in a poor condition within the core activity area may attract a wider range of potential development opportunities</li> </ul>	<ul style="list-style-type: none"> <li>Approved uses may adversely impact on the performance of the town centre which may have longer detrimental impacts</li> <li>Course of action may be unlikely to have a significant enough impact to resolve town centre performance. Flexibility has already been applied within the policy for a range of uses for some time but this does not appear to have resulted in any</li> </ul>



	significant benefits to the town centre performance
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### Hawick Option 3 – Amalgamation of options 1 and 2

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>This option may have some benefits in as listed in above tables</li> </ul>	<ul style="list-style-type: none"> <li>Whilst this option may have some added values it is considered given the poor performance of the town centre a more radical approach is required</li> </ul>

### Hawick Option 4 – Remove Core Activity Area Completely

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Reducing the core area completely would in essence allow a greater no of other uses within the town centre</li> <li>Whilst there is the threat that complete removal of the core activity area may cause longer term footfall issues it is considered some significant action is required in Hawick. To implement this as a test case via a pilot scheme would seem an appropriate course of action in the circumstances</li> </ul>	<ul style="list-style-type: none"> <li>Approved uses may adversely impact on the longer term performance of the town centre</li> <li>Parts of the core activity area are operating well with retailing units within them</li> </ul>

### Recommendation

Whilst the advantages of Options 1,2 and 3 are noted it is considered that given the continuing town centre issues within Hawick in terms of footfall, vacancy rates, etc these options will not be sufficient to see significant or desired changes to the performance of the town. Consequently it is considered option 4 which would remove the core activity completely for the one year trial period would be the most preferable for the pilot scheme. Proposals within the removed core activity area designation will now be tested against current LDP policy ED3 (Town Centre and Shopping Development) which allows a mix of town centre uses.

However, there is a caveat that prevents change of uses to ground floor residencies within the currently defined core activity area. Such uses are acceptable within edge of core activity areas and upper floors, but whilst they would be a simple more profitable option for owners within

core activity areas, they would remove permanently opportunities for commercial activities. It is also considered there should be a general presumption against anti-social uses within this area which may have detrimental impacts on the amenity of residential properties and other uses.

## **Galashiels**

Prior to identifying the options for Galashiels consideration must be given to the extent of the current core activity area, where the current vacant units are and what the range of uses currently are within the town centre. These are identified in figure 6. Similarly the strengths, weaknesses, opportunities and threats for Galashiels town centre should be identified and considered. These are shown in fig 7. The findings of figs 6 and 7 will be taken on board when considering the range of options.

**Fig 6 – Uses and Vacancies within Galashiels Town Centre**

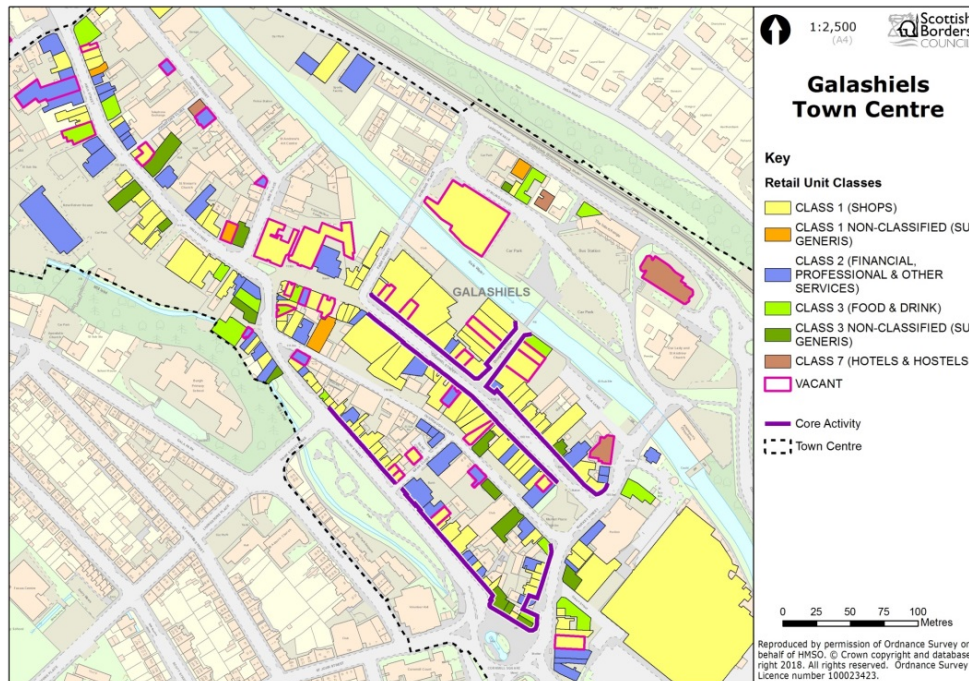


Fig 7 - SWOT Exercise for Galashiels

<b>Strengths</b>	<b>Weaknesses</b>
Galashiels is a primary retail centre for Scottish Borders	Vacancy rate in town centre is above national average
Strong retail catchment area	Douglas Bridge has high vacancy rates
Wide range of services / facilities in town centre eg cinema, community hall, library, bingo	Town centre in competition with Tesco, Asda and Currie Road development
Both national and local retail based interest	Intensely used town centre buildings in Bank St / Channel Street leave little opportunity for new build or expansion
New retail developments are stemming flow of shoppers outwith region	Town centre does not cater particularly well for cyclists
Core activity area promotes vitality and viability of town centre	Core activity area may be too stringent in controlling ground floor units in current economic climate
Parts of Town centre remain buoyant	Overhaugh Street relatively unattractive in terms of appearance and amenity
Bank Street continues to be a very vibrant and attractive area for retailers	Part of town centre at flood risk
Attractive built heritage with Conservation Area. The CA ensures control and enhancement of townscape	Lack of facilities in town centre to attract tourists
Town centre has attractive focal points, such as Bank St Gardens, Market Square, Corn Mill Square	Uncertain future use and interest of land between High Street and "secondary" retail outlet centre at Buckholmside area
Gala Inner Relief Road project has improved traffic flows through the town	Townscape / town fabric is in a poor condition in some areas (e.g lower end of Channel Street next to Market Square)
Improved town centre parking provision at Asda, Tesco and Currie Road	
CCTV cameras give feeling of safety and security	
<b>Opportunities</b>	<b>Threats</b>
Borders Railway offers opportunities to town centre and tourism development	Change of shopping patterns restricts some retail investment in town centre
Forthcoming Tapestry building offers town centre econ	Changes to core activity area retail policy may be counter productive to

development opportunities and will be a catalyst for further investment	the opportunities to the town centre the Borders railway and Tapestry seek to promote
The planning briefs for Burgh Yard and Stirling Street encourage a range of appropriate uses and offer development opportunities for investment	Shift of retailing magnet away from High Street towards eastern end of town centre
Availability of town scheme / regeneration grants would encourage better design and fabric of buildings	Flood risk to town centre
Fully utilise the potential of Gala Water running through the town centre as an amenity feature with the possibility of a walk way	Competition from online shopping which will reduce visits to town centre
	Town centre regeneration funding available

In order to consider appropriate action to address issues with the current core activity area in Galashiels the following options are discussed :

**Galashiels Option 1** – Reduce Size of the Core Activity Area. (This can refer to a series of options such as, for example, removing areas where vacancy rates are highest, buildings are most unattractive, etc )

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Reducing the size of the core activity area would allow some flexibility to provide a greater no of other uses within the centre of the town</li> <li>More emphasis would be placed on protecting the remaining core activity area for Class 1 and 3 uses</li> <li>Opportunities to remove some of the longer term vacant premises and those in an unattractive condition (e.g buildings at the lower end of Channel Street adjoining the Market Square) from the core activity area may attract a wider range of potential developers</li> </ul>	<ul style="list-style-type: none"> <li>Approved uses may adversely impact on the vitality and viability of the town centre which may have longer term detrimental impacts</li> <li>Many areas of the town centre continue to function well and there are not considered grounds to remove them from the core activity area e.g. Bank Street, parts of Channel Street</li> <li>Allowing more uses which generate less town centre footfall activity may adversely dilute the positive impact on the opportunities the Borders railway and the Tapestry will offer</li> <li>The lower end of Channel Street currently has only 1no vacancy and a more flexible approach could result in loss of retail units yet would not resolve the issue re poor appearance of buildings</li> </ul>

**Galashiels Option 2 – Retain Core Activity Area but allow more flexible approach to potential uses.** (This could involve the support for some Class 2 (Financial, Professional and other Services) which are considered to generate notable footfall, Class 10 (Non-residential Institutions) and Class 11 (Assembly and Leisure) uses – see Appendix 3)

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• This more flexible approach would allow a wider range of uses which should help town centre performance – Douglas Bridge is an area which may benefit from this</li> <li>• Opportunities to allow a wider range of uses for some of the longer term vacant premises and those in a poor condition from the core activity area may attract a wider range of potential development opportunities</li> </ul>	<ul style="list-style-type: none"> <li>• Approved uses may adversely impact on the performance of the town centre which may have longer detrimental impacts</li> <li>• Bank Street remains an attractive and buoyant area for retailers and there would appear little reason to amend policy for this area</li> <li>• Channel Street has a high volume of retail outlets</li> <li>• More flexible allowance of uses may adversely impact on the opportunities the Borders railway and the Tapestry will offer</li> </ul>

**Galashiels Option 3 – Amalgamation of options 1 and 2**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Whilst option 2 has obvious benefits there remains issues with option 1 in respect of identifying an obvious area / areas to be removed from the core activity area</li> </ul>	<ul style="list-style-type: none"> <li>• Consideration to be given to ensure this option has no long terms adverse impacts on the economic benefit opportunities the Borders Railway and the Tapestry will offer, although it is likely this option is not of a such a significant scale that it will</li> </ul>

**Option 4 - Remove Core Activity Area Completely**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Reducing the core activity area further would in essence allow a greater no of other uses within the town centre</li> </ul>	<ul style="list-style-type: none"> <li>• Large parts of the Galashiels core activity area are functioning well and allowing proposals which would dilute the</li> </ul>



	<p>performance of these areas and the knock on benefits they give to the town centre would be an issue</p> <ul style="list-style-type: none"> <li>• This option may be considered unnecessary and that such a significant change at this time to town centre policy may have serious impacts on the ability to maximise the economic opportunities the Borders Railway and the Tapestry offer</li> </ul>
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### Recommendation

Although Galashiels has suffered in terms of reductions of town centre footfall and increased vacancy rates these are not considered to be as severe as Hawick. Furthermore, given the economic opportunities the Borders railway and the forthcoming Tapestry attraction will generate great care must be given to ensure that any changes to policy ED4 do not dilute the benefits these hope to offer. Consequently it is considered changes to the core activity area within Galashiels need a more fine grained policy approach, and so option 4 of removing the core activity area completely should be ruled out.

The core activity area has previously been reduced in size and given the relatively widespread vacancies across the town centre it is difficult to pinpoint a particular area where there is a clear justification for removing it from the core area designation. Whilst there are several vacancies at the pedestrianised part of Channel Street it is likely these will become highly desirable premises in due course when the Tapestry opens in the close vicinity and it therefore is difficult to justify a case for removing them from the designation.

It is therefore concluded that option 2 to retain the core activity area but allow a more flexible approach to potential uses would be the most appropriate course of action for the pilot scheme. These proposed acceptable additional uses are identified within Appendix 3.

It is also considered there should be a general presumption against anti social uses within this area which may have detrimental impacts on the amenity of residential properties and other uses. In order to encourage redevelopment in Galashiels the guidance also proposes temporarily removing the requirement for Development Contributions within the town centre. This would relate to affordable housing and education provision. Contributions towards the Borders Railway must remain as they are a statutory requirement. There are no current Development Contributions required within Hawick Town centre.

## Expansion of Policy Guidance Relevant to other Scottish Border Towns

Whilst this pilot study has focused mainly on Hawick and Galashiels the study is also considered an opportunity to lay down some further criteria guidance to be considered for proposals within other core activity areas within the Scottish Borders. These will be relevant to Galashiels, Peebles, Kelso, Melrose, Jedburgh, Selkirk, Eyemouth and Duns. As this pilot scheme removes the core activity area from Hawick this will not be relevant to Hawick.

Policy ED4 incorporates some supporting text which allows some flexibility to support some uses in instances where a town centre may be underperforming. This includes consideration of 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

Of the above listed criteria it is considered further guidance should be given with regards to judging application submissions in terms of the longevity of the vacancy and the marketing history of the premises. Such further guidance would be useful to both the applicant and the decision maker. A vacancy which lasts longer than 6 months would be cause for concern.. However, there would need to be a distinction as to how long a property has been vacant and how long has been marketed. For example, if a property had been vacant for 6 months but had only been marketed for 2 months, then it may be considered that is not a sufficient time to test the market which could justify an approval of a use which policy would not normally allow. Consequently it is considered that if premises have been vacant for at least 6 months then it must have been marketed for a substantial period of that time. Furthermore, satisfactory marketing evidence must be submitted which would be given considerable weight within the decision making process. It is considered the criteria test should require the submission of the following :

- premises must have been vacant for at least 6 months and adequate marketing must have taken place for a substantial period of time
- premises must have been advertised by at least one property agent who normally deals in commercial property
- details of the nature of the marketing, including for example, details of publications used, distribution area of the publications and press advertisement
- submission of property selling details which should include property/site, address, size, location, description, services, planning/current, reference to potential uses, terms, leasehold rent or freehold sale price, viewing arrangements.

- details of all expressions of interest and all offers received, including rental interest, with explanations as to why such offers were not accepted. In circumstances where the premises are currently occupied, the assessment should indicate clearly why the occupier wishes to vacate the premises
- independent valuation confirming the selling or lease price was reasonable (this is to ensure instances where no third party interest was lost due to unrealistic overpricing)

Policy ED4 states “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 activity area”. It is considered this pilot study would be an opportunity to expand upon this requirement. It is therefore considered that, in respect of a proposed use which would not normally be supported within a core activity area, the term *significant positive contribution* should take cognisance of

- the economic benefits of the proposals, including consideration of the general positive contribution to the economic or social vitality of the town centre
- the footfall it is likely to generate
- how active the frontage is in terms of how it can help improve the public perception of successful town centres in terms of safety, comfort, sociability and liveliness

## **Appendix 1**

### **Policy ED4 : Core Activity Areas in Town Centres**

- 1.1 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.
- 1.2 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.
- 1.3 Decision making will be guided by any research or studies on vitality and viability by the Council or developers.

#### **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



## Appendix 2

### The Town and Country Planning (Use Classes) (Scotland) Order 1997

A GENERAL GUIDE TO USE CLASSES ORDER IN SCOTLAND		
UCO 1997	Description	Change Permitted [see note 2]
<b>Class 1</b> Shops	Retail sale of goods, hairdresser, undertaker, travel & ticket agency, post office. Dry cleaner, launderette, cold food consumption off premises. Display of goods for sale, hiring out of domestic goods or articles, reception of goods to be washed, cleaned or repaired (where the sale, display or service is principally to visiting members of the public.	No permitted changes.
Non-classified [Sui Generis]	Sale or display of motor vehicles.	Permitted change to Class 1. [limited to floor area of 235 sq.m. or less]
	Amusement centre, taxi business, vehicle hire.	No permitted changes.
<b>Class 2</b> Financial, Professional and other services	Financial, professional or any other services, including use as a betting office [which is appropriate to provide in a shopping area, principally for visiting members of the public].	Permitted change to Class 1.
<b>Class 3</b> Food & drink	Restaurant, cafe, snack bar [use for sale of food or drink on the premises].	Permitted change to Class 1 & 2.
Non-classified [Sui Generis]	Public House [primary use sale of alcoholic liquor].	No permitted changes.
	Hot food takeaway.	Permitted change to Class 1
<b>Class 4</b>	Office [other than that specified under Class 2]	Permitted change to Class 6.

Business [see note 3]	Research & development of products or processes Light industry.	[limited to floor area of 235 sq.m. or less]
<b>Class 5</b> General Industrial	General industry. [use for the carrying on of an industrial process other than one falling within the Class 4 [Business] definition].	Permitted change to Class 4 & 6. [Class 6 change limited to floor area of 235 sq.m. or less]
<b>Class 6</b> Storage or distribution	Storage or distribution.	Permitted change to Class 4.
<b>Class 7</b> Hotels & hostels	Hotel, boarding & guest house, hostel.	No permitted changes.
<b>Class 8</b> Residential institutions	Residential school, college, training centre Residential accommodation with care, hospital, nursing home.	No permitted changes.
<b>Class 9</b> Houses	House occupied by a single person, or a number living together as a family, or as a household of 5 persons or less. Limited use as a bed & breakfast or guesthouse.	No permitted changes.
<b>Class 10</b> Non- residential institutions.	Creche, day nursery, day centre, provision of education Museum, exhibition hall, public library, display of art. Public worship, religious instruction, social activities of a religious body.	No permitted changes.
<b>Class 11</b> Assembly & leisure	Cinema, concert hall, bingo hall, casino, dance hall, discoteque. Skating rink, swimming bath, gymnasium or for indoor sports or recreation not involving motorised vehicles or firearms.	No permitted changes.
Non- classified [Sui Generis]	Theatre. Motor vehicle or firearm sport.	No permitted changes.
<b>Guidelines</b>  1. Any change from one use class to another constitutes development and planning permission will normally be required. Where the existing and proposed use are within the same class does not constitute development and permission normally will not be required. NB the freedom to switch between certain use classes can be restricted by conditions imposed by the planning consent.		

2. Any uses outwith the specified use classes are defined as non-classified Sui-Generis. Planning permission is required for any change of use involving a Sui Generis use.
3. A Class 4 Business use is that which can be carried on in a residential area without detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
4. Notwithstanding the provisions of the 1997 Use Classes Order, the General Permitted Development Scotland Order 1992 defines certain changes between use classes considered to be permitted development which therefore do not require planning permission. This is subject to the satisfaction of certain criteria as set out in the Order and, as mentioned in Point 1, existing uses must be free of restrictive conditions
5. It should be noted that permitted change of use are 'ratchet' changes, i.e. they cannot be made in reverse.
6. This is of course a general guide, and for full details reference should be made to the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, together with any subsequent amendments.

### **Appendix 3**

**Potential Other Uses within Core Activity Areas** (Note - Active frontages are generally regarded as better designed and attractive frontages which can significantly affect public perception of successful town centres in terms of safety, comfort, sociability and liveliness)

<b><u>Use Class</u></b>	<b><u>Specific Use Type</u></b>	<b><u>Yes / No</u></b>	<b><u>Comments</u></b>
<b>Class 2</b>	Betting Office	yes	Frontage not too active, online betting options reduce visits, but footfall can be active. Some linked trips
	Bank	yes	Generally inactive frontage – footfall decreasing with on-line banking so even less viable as a contributor – unlikely to receive proposals for new banks. However, banks still generate flow of regular customers
	Beauticians	yes	Frontage generally inactive, but depends on business. Footfall not high but regular. Some linked trip potential. No competition from online, so an assured presence
	Nail Salon	yes	Frontage generally inactive, but depends on business. Footfall not high but regular. Some linked trip potential. No competition from on-line, so an assured presence
	Estate Agents	yes	Inactive frontage, low footfall generally. However some linked trip potential
	Photographer Studio	no	Fairly inactive frontage, low footfall, low linked trip potential
	Dog Groomers	no	Although potential for linked trips, it has low footfall and frontage can be inactive. No competition from online so an assured presence
	Veterinary Surgeries	no	Inactive frontage generally, footfall can be relatively low (though depends on business), potential for linked trips low.
	Lawyers	no	Inactive frontage, low footfall generally. Some linked trip potential. Not a good physical presence
	Financial / mortgage advisor	no	Inactive frontage, low footfall generally. Some linked trip potential. Not a good physical presence
	Accountants	no	Inactive frontage, low footfall generally. Some linked trip potential. Not a good physical presence
	Health Centre	no	Inactive frontage, albeit regular footfall. Some linked trip potential, but not a town centre use where retail spend is key
	Dental Surgeries	no	Inactive frontage, albeit regular footfall. Some linked trip potential, but not a town

			centre use where retail spend is key
	Tattooist	no	Inactive frontage (generally), with low footfall. Linked trip potential is low. No competition from online so an assured presence. However, footfall / number of visitors per day is limited
<b>Non-classified (Sui Generis)</b>	Public House	yes	Inactive frontage. Can be low footfall during day (though it depends on the business – food orientated businesses can be a lively daytime contributor), but active in evening. Its suitability will depend on location
<b>Class 7</b>	Hotel	yes	Considered an appropriate use within Galashiels town centre core activity area
	Boarding and guest house	no	Ok on periphery of core, or above shops, but not as frontages within a core where active retail spend is key. A contributor, yes, but not in terms of physical presence
	Hostel	no	Ok on periphery of core, or above shops, but not as frontages within a core where active retail spend is key. A contributor, yes, but not in terms of physical presence
<b>Class 9</b>	Houses	no	Houses are acceptable on edge of core activity areas and on upper floors, but would result in the permanent loss of more desirable footfall uses within core activity areas
<b>Class 10</b>	Crèche	no	Very limited benefit to town centre. Not appropriate to a core activity area
	Day nursery	no	Very limited benefit to town centre. Not appropriate to a core activity area
	Museum	yes	Will depend on context/town and the proposal itself. Could be inactive frontage (depending on business) but could bring high or low footfall and linked trips – really depends on the business proposal itself (e.g. tapestry) and the context. Could encourage tourist related retailing
	Exhibition Hall	yes	Will depend on context/town and the proposal itself. Could be inactive frontage (depending on business) but could bring high or low footfall and linked trips – really depends on the business proposal itself (e.g. tapestry) and the context. Could encourage tourist related retailing
	Public Library	yes	Will depend on context/town and the proposal itself (a library is likely less appealing than an exhibition hall for a particular tourist attraction for example). Could be inactive frontage (depending on business) but could bring high or low footfall and linked trips – really depends on the business proposal itself (e.g. tapestry) and the context
	Display of Art	yes	Will depend on context/town and the proposal itself. Could be inactive frontage (depending on business) but could bring high or low footfall and linked trips – really depends on the business proposal itself (e.g. tapestry) and the context. Could encourage tourist related retailing
<b>Class 11</b>	Cinema	yes	Depends on town – if evening activity important, then a good contributor in that sense. Not good during the day, largely inactive frontage. Some linked trip potential
	Concert Hall	yes	Depends on town – if evening activity important, then a good contributor in that sense.



			Not good during the day, largely inactive frontage. Some linked trip potential
	Bingo Hall	yes	Depends on town – if evening activity important, then a good contributor in that sense. Not good during the day, largely inactive frontage. Some linked trip potential
	Casino	yes	Depends on town – if evening activity important, then a good contributor in that sense. Not good during the day, largely inactive frontage. Some linked trip potential
	Dance Hall	yes	Depends on town – if evening activity important, then a good contributor in that sense. Not good during the day, largely inactive frontage. Some linked trip potential
	Discotheque	yes	Depends on town – if evening activity important, then a good contributor in that sense. Not good during the day, largely inactive frontage. Some linked trip potential
	Skating Rink	yes	Not active frontage, but good for evening activity for the most part, and linked trips and footfall. Will depend on town/location though.
	Swimming Pool	yes	Not active frontage, but good for evening activity for the most part, and linked trips and footfall. Will depend on town/location though. Extremely unlikely new proposal
	Gymnasium	yes	Not active frontage, but good for evening activity for the most part, and linked trips and footfall. Will depend on town/location though.
	Indoor Sports/Recreation	yes	Not active frontage, but good for evening activity for the most part, and linked trips and footfall. Will depend on town/location though.

# CONSULTATION RESPONSE TO PLANNING OR RELATED APPLICATION

<b>Comments provided by</b>	<b>Mark Douglas</b> Lead Officer Built Heritage & Design		<b>Contact e-mail/number:</b> <a href="mailto:mtdouglas@scotborders.gov.uk">mtdouglas@scotborders.gov.uk</a> <b>01835 826563 (direct dial)</b>	
<b>Date of reply</b>	09/07/2018			
<b>Planning Application Reference</b>	18/00764/FUL		<b>Case Officer:</b> Carlos Clarke	
<b>Proposed Development</b>	Internal & external alterations			
<b>Site Location</b>	37 Bank Street, Galashiels (Shop)			
<p><i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i></p>				
<b>Background and Site description</b>	<p>The shop to which the application relates is part of the GF floor of a 3 storey later 19<sup>th</sup> century tenement with 2 shops on the GF and flats above. The building was added to the statutory list at category C in 2006 as part of the resurvey of Galashiels Burgh.</p> <p>The list description notes that the building is a good example of a commercial building with decorative detailing.</p> <p>It is noted that the stonework above the shop windows and doors has been painted in the past</p>			
<b>Key Issues (Bullet points)</b>	<ul style="list-style-type: none"> <li>Impact of the alterations on the special architectural or historical interest of this category C listed building / and impact on the character and appearance of the Conservation Area.</li> </ul>			
<b>Assessment</b>	<p>Whilst I generally have no objections to the principle of the proposed works, the current application is light on detail.</p> <p><u>External:</u> The existing external stone shop front has been partially painted in the past and is currently a mid-green shade. My understanding is that this painted stone will be repainted a dark grey colour but it is not clear from the application what is the extent of this repainting; stonework or stonework and door / window frames?</p> <p>There is information of proposed signage, but it is not clear where this is to be located; on the glass or above the central doorway??</p>			
<b>Recommendation</b>	<input type="checkbox"/> Object	<input type="checkbox"/> Do not object	<input type="checkbox"/> Do not object, subject to conditions	<input checked="" type="checkbox"/> Further information required
<b>Recommended Conditions</b>				

<b>Recommended Informatives</b>	
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# Consultation Reply



## ENVIRONMENT AND INFRASTRUCTURE

**To:** HEAD OF PLANNING AND REGULATORY SERVICE

**FAO:** Carlos Clarke

**Your Ref:** 18/00764/FUL

**From:** HEAD OF ENGINEERING & INFRASTRUCTURE

**Date:** 10<sup>th</sup> July 2018

**Contact:** Ian Chalmers

**Ext:** 5035

**Our Ref:** B48/2539

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**Nature of Proposal:** Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration  
**Site:** 37 Bank Street Galashiels

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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.

Notwithstanding, this is a small scale change of use that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems, I would not oppose it on flooding grounds.

I would strongly encourage the applicant to sign up free to the Council's "Galashiels Flood Warning Group" which gives an early warning message for predicted flooding at Bank Street from flood waters overtopping at the Bakehouse / Mossilee Burn. This gives an early warning for the businesses on Bank Street to prepare for flooding. To do this, please either e-mail your contact details (Name, Address, Business, Mobile No, E-mail) to [ian.chalmers@scotborders.gov.uk](mailto:ian.chalmers@scotborders.gov.uk) or phone Ian Chalmers on 01835 820535.

A number of flood protection products such as floodgates and air-vent covers are also commercially available for the existing property and details of these can be found by calling Emergency Planning on 01835 825056 who are able to offer discounts for the products.

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.

Ian Chalmers  
Engineer – Flood and Coastal Management

## PLANNING CONSULTATION

To: Forward Planning Section

From: Development Management

Date: 21st June 2018

Contact: Carlos Clarke ☎ 01835 826735

Ref: 18/00764/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 July 2018, 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 July 2018, 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:** Robin Purdie

**Agent:** N/A

**Nature of Proposal:** Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration

**Site:** 37 Bank Street Galashiels Scottish Borders TD1 1EP

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### OBSERVATIONS OF: Forward Planning Section

## CONSULTATION REPLY

37 Bank Street is located within the Core Activity Area of Galashiels as defined by the Scottish Borders Local Development Plan 2016. This application must therefore be assessed against Policy ED4 – Core Activity Areas in Town Centres. In essence, this policy seeks to ensure Class 1 retail units are not lost within town centres as these generate higher footfall which enhances vitality and viability of the town centre. As a result of the economic downturn Policy ED4 also allows other complimentary uses within town centres, namely those within Use Class 3 (Food and Drink).

The proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis which in extreme instances may allow consideration of allowing other uses.

The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties.

Policy ED4 states that 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 area function of the area and will only be acceptable where there is a significant positive contribution to the core retail function. Paragraph 1.2 of the fore text to Policy ED4 sets out criteria against which proposals for Class 2 uses within core retail activity areas will be considered, these are:

- 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

The proposed Class 2 Use therefore requires to be tested against the aforesaid criteria.

The Council's Town Centre Footfall Survey at this location (point 7) indicates a recent increase up to 8470 in 2017 from 6850 in 2013. The Council's most recent retail survey (Summer 2017) indicates that the Galashiels retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance.

The Council's retail survey, which goes back to 2006, shows that these premises have been vacant since late 2016. No information has been submitted in respect of the marketing of the premises for the period it has been vacant. It is not, therefore, possible to assess this application in terms of the marketing history of the premises during this period. Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive gardens. Vacancy rates on Bank Street have historically been low.

The Council agreed to approve a Pilot Scheme at a special meeting on 16 July 2017 for Galashiels and Hawick. This will run for a year and aims to revitalise and reinvigorate the town centres of Galashiels and Hawick by adding more flexibility to Policy ED4. In Galashiels, a wider and more flexible range of uses can be supported. The Pilot Scheme, however, notes that financial/mortgage advisors offer an inactive frontage and low footfall generally. It was therefore agreed that this type of use would not be permissible within the Galashiels Core Activity Area under this Pilot Scheme.

Town centre regeneration in Galashiels is a major objective for the Council and these principles are identified in the Blueprint. If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. This would have major implications for the aspirations of ensuring a buoyant and healthy town centre.

It is not considered that this planning application meets the requirements of Policy ED4 (and the Pilot Scheme) and should therefore be refused.

# CONSULTATION RESPONSE TO PLANNING OR RELATED APPLICATION



Comments provided by	Roads Planning Service	Contact e-mail/number
Officer Name and Post	Alan Scott Senior Roads Planning Officer	<a href="mailto:ascott@scotborders.gov.uk">ascott@scotborders.gov.uk</a> 01835 826640
Date of reply	2 <sup>nd</sup> August 2018	
Planning Application Reference	18/00764/FUL	Case Officer: Carlos Clarke
Proposed Development	Change of use from class 1 to 2	
Site Location	37 Bank Street, Galashiels	
<p><i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i></p>		
Background and Site description		
Key Issues (Bullet points)		
Assessment	I have no objections to this proposal.	
Recommendation	<input type="checkbox"/> Object <input checked="" type="checkbox"/> Do not object <input type="checkbox"/> Do not object, subject to conditions <input type="checkbox"/> Further information required	
Recommended Conditions/Reason for Refusal		
Recommended Informatives		

Signed: DJI

## List of Policies

**Local Review Reference:** 18/00018/RREF

**Planning Application Reference:** 18/00764/FUL

**Development Proposal:** Change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration

**Location:** 37 Bank Street, Galashiels

**Applicant:** Robin Purdie

### 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,

## List of Policies

- 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 PMD5: INFILL DEVELOPMENT**

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

## **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:

## List of Policies

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.

### **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.



## **List of Policies**

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 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 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;
- d) 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

## **List of Policies**

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:

- 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 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.

### **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

## List of Policies

- 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.

### **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.

## **List of Policies**

### **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**

- “Shop Fronts and Shop Signs” Supplementary Planning Guidance 2011
- Town Centre Core Activity Area Pilot Study 2018
- Scottish Planning Policy 2014

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