

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 SEPTEMBER 2016**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/00681/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Galashiels and District
<b>PROPOSAL:</b>	Change of use from Class 4 to Class 10
<b>SITE:</b>	Office, 6A Roxburgh Street, Galashiels
<b>APPLICANT:</b>	Ahmed Mustafa
<b>AGENT:</b>	None

**SITE DESCRIPTION**

The site comprises a two-storey-and-attic traditional building located amongst a range of commercial, residential and industrial properties within Roxburgh Street, and located a short distance south-west of High Street. It backs onto a band hall to the rear, with which it shares the front door entrance onto Roxburgh Street. The building flanks a former dental surgery to the north-east and hairdressers to the south-west. There is no external space associated with the property that has been included in the application site.

**PROPOSED DEVELOPMENT**

This application seeks consent to convert the building from its current office use to a use within Class 10 (non-residential institutions) of the Use Classes (Scotland) Order 1997 (UCO). Specifically, the proposal is to create a base address for the Borders Islamic Society, to be used as an office to organise activities and events which include prayer gatherings and educational uses. The last known use of the property was as general offices (Class 4), and though the property shares an entrance with the band hall, that operates as a separate planning unit. Planning Permission is, therefore, required to convert the Class 4 office use to a use falling within Class 10.

Class 10 of the UCO 1997 includes the following uses (not including residential uses):

- a crèche, day nursery or day centre;
- for the provision of education;
- for the display of works of art (otherwise than for sale or hire);
- as a museum;
- as a public library or public reading room;
- as a public hall or exhibition hall; or
- for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.

**PLANNING HISTORY**

There is no relevant planning history

## REPRESENTATION SUMMARY

Six representations have been received, though several are on behalf of the same commercial property to the north-east. The key issues raised are:

- Parking, congestion and road/pedestrian safety
- Noise and disturbance

## APPLICANT'S SUPPORTING INFORMATION

A description of the proposed use has been submitted by the applicant, stating that:

- The building will be the base address for Borders Islamic Society who would use it as an office downstairs to organise activities and events, with facilities to welcome visitors. The main regular activity is Friday prayers, around 1pm approx. for about 1 hour. Attendance varies, between 20-30. It may be a little more if their profile increases with a permanent address.
- An open day once a year is planned
- Classes for general subject and Arabic language sessions are proposed. These will be ad hoc sessions
- The rest of the week, someone will be there to check that everything is in order
- They have a large community when it comes to major gathering, at Eid time and Ramadan for example. Most probably, they will rent a bigger hall as the building is too small to accommodate these occasions
- The place will be operated mainly by the Trustees (Chair, Secretary and treasurer) and anyone that they would delegate. All in all, not more than 5-6 persons will be involved in the operation.

## DEVELOPMENT PLAN POLICIES:

### Local Development Plan 2016

PMD2 Quality Standards

PMD5 Infill Development

HD3 Protection of Residential Amenity

EP1 International Nature Conservation Sites and Protected Species

IS7 Parking Provision and Standards

IS8 Flooding

IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

## OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy 2014

Planning Advice Note 1/2011 Planning and Noise 2011

## CONSULTATION RESPONSES:

Scottish Borders Council Consultees

**Flood Protection Officer:** The site is indicatively at risk of flooding in a 1 in 200 year event. Notwithstanding this, this is a small scale development that is unlikely to have a significant effect on local flooding issues and does not oppose

**Roads Planning Service:** The proposed site is immediately adjacent to the town centre boundary as identified in the LDP. Although the existing building has no dedicated parking provision associated with it, the surrounding streets and car parks in the vicinity of the site, together with other remoter areas for parking are also available for users of this facility. It should also be noted that the town and local service bus stops are located very close to the premises. That said, cognisance must be taken of the concerns of several objectors to the proposal on parking provision alone. The RPS does have some reservations regarding parking as there is very little, and occasionally no spare parking capacity immediately adjacent to the site. Visitors to the facility would be more likely to park and walk, rather than try to park at, or near to the site. There are three car parks relatively nearby which are considerably underused, including Low Buckholmside, Ladhope Vale and High Street, and the applicant should be made aware of them. In summary, due to its central location, the nearby bus stop locations and the availability of parking provision within a reasonable walk (all less than 400m), the RPS does not object.

**Environmental Health Service:** The new planning classification allows for some uses that have the potential to cause noise annoyance. Recommend a condition preventing singing, playing of musical instruments or amplified sound without approval, following agreement of a noise assessment.

#### Statutory Consultees

**Galashiels Community Council:** No reply

#### **KEY PLANNING ISSUES:**

Whether the proposed development would comply with the Local Development Plan 2016, principally with respect to potential amenity impacts on neighbouring properties and on road safety, specifically as regards parking implications

#### **ASSESSMENT OF APPLICATION:**

##### **Principle**

The building is within the town's settlement boundary, located just outside the town centre boundary. The principle is agreeable generally, subject to compliance principally with Policy PMD5, which is covered below, along with the requirements of other relevant policies.

##### **Land use conflict/neighbouring amenity**

Though there are residential uses in the vicinity, there are also office, retail, industrial and other non-residential uses within the area. The rear of the property is currently occupied as a band hall. This proposal will principally involve low key activities and, even with prayer gatherings and educational activity that may generate groups of people, a reasonable level of activity should be expected within such a central location. The Environment Health Service has recommended a condition controlling singing, playing of musical instruments or amplified sound. Proposals for amplified sound would benefit from assessment and control, though it is reasonable to require this by condition in this particular case. This is principally because there is already a band hall here and a range of non-residential uses so there is a reasonable prospect that amplified sound could be controlled to a suitable level. However, in terms of controlling non-amplified sound, this is much more difficult to enforce. More needs to be known about such activities before being able to apply a reasonable level of control. As such, it is recommended that a noise management plan be submitted prior to operation of the use that can identify, assess and propose mitigation for any potentially noisy activities.

There is a risk of conflict between the proposed use and the band hall. For example, band rehearsals/performances taking place at times when the proposed use is running its prayer gatherings etc. These uses would be within the same overall building, sharing the same access, and the band hall has been notified of the application. However, no representation has been made on its behalf. This is effectively a matter between occupiers within the same building, and in the absence of any representation suggesting a particular conflict may arise, it is not possible to ascertain with any certainty that a land use planning conflict would undermine the suitability of the proposed use. The noise management plan can, as far as practicable, seek to manage activities to minimise risk of conflict

### **Roads safety/parking**

In terms of road safety matters, a key concern is that the property has no dedicated parking. It is, however, directly accessible by path from the town centre with on-street parking alongside it. That said, the area is heavily congested during the day since it is so convenient for the town centre. This proposal will principally involve low key activities, but will include education provision and, in particular, prayer gatherings could attract 20-30 people and even more depending on the success of the facility. Numbers associated with the proposed use are unpredictable though the building itself is not particularly large. It also has an established office use that would have generated traffic too. Concerns raised by neighbouring property owners/occupiers are understandable. The centralised location, however, with parking available in the nearby High Street car park in particular, does weigh heavily in favour of the proposal. It may add to existing pressure for parking here, but its potential implications do not lead the Road Planning Service to raise concerns regarding congestion or road or pedestrian safety. An informative note can flag up the availability of local car parks.

### **Ecology**

There are no implications for protected species as no physical alterations are proposed to the external fabric of the building.

### **Visual impacts**

There are no external alterations proposed and signage, if intended, will be controlled separately. An informative note can cover this aspect.

### **Services**

It is understood that mains water and drainage services already exist.

### **Flooding**

The property is potentially at risk of flooding, though this proposal will not alter its footprint or access/egress arrangements. The proposal would not comprise a vulnerable use and our Flood Protection team raise no concerns. An informative note can bring the matter to the applicant's attention.

### **Future uses**

There is no permitted change from a use within Class 10 of the Use Classes Order to other uses outwith the same class under the General Permitted Development (Scotland) Order 1992. However, Class 10 also includes uses such as a crèche, day nursery and other public/community uses. This would potentially allow a later change to uses within the same Use Class without Planning Permission. Given the central location, the range is not a

problem in general principle, but one or more of the other uses may lead, particularly, to specific parking issues that would benefit from individual assessment. It would be reasonable to remove the right to make subsequent changes of use within Class 10 unless subject to a planning application, and so permit this development only for its use as intended by the applicant (or similar occupier). The recommended condition would, however, allow reversion to Class 4 offices without a further planning application since there is no need to reconsider the merits of the existing use.

## **Conclusion**

Subject to compliance with the schedule of conditions, the proposed use is considered acceptable when assessed against the Local Development Plan 2016.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application be approved subject to the following conditions and informative note:

- 1 This consent permits the use of the building within the application site for education, religious and community activities, including office administration, undertaken by the Borders Islamic Society or other religious body, falling within Class 10 (b) and (g) of the Use Classes (Scotland) Order 1997. It does not permit any other activities from being undertaken as part of the approved use, and no subsequent change to any other use within Class 10, notwithstanding the Order or any future revision or other statutory Order, without a planning application having first been submitted to and approved by the Planning Authority. In the event that the approved Class 10 activities cease, the lawful use of the property may revert to a use falling within Class 4 of the Order.

Reason: The proposed use has been assessed on the basis of the submitted specification generally describing the activities associated with it. Other uses would require individual assessment to ensure compliance with planning policies, particularly (but not exclusively) in the interests of ensuring implications for road safety are accounted for. Reversion to the current use (Class 4) does not require assessment by means of a further planning application.

- 2 The use shall not come into operation until a Noise Management Plan has been submitted to and approved by the Planning Authority. The use shall only operate in accordance with the approved plan

Reason: To minimise risk of conflict between the proposed use and neighbouring uses

## **Informatives**

- 1 Condition 2 requires a Noise Management Plan (NMP). This is required to identify, assess and propose mitigation (where necessary) for potentially noisy activities (such as amplified and non-amplified speech, singing and playing of musical instruments) associated with the proposed use that may disturb neighbouring amenity. It should also account (wherever practicable) for activities undertaken within the existing band hall to limit the potential for disturbance affecting either occupier. The reason is to minimise risk of conflict between this use and neighbouring uses. Where amplified sound is proposed, this must be supported by a technical noise assessment as part of the NMP.

- 2 This consent grants a conversion of the property to the approved use only. It does not include external alterations which will require Planning Permission in their own right where these would materially affect the external appearance of the building. In addition, signage may require Advertisement Consent unless of a size, specification and in a location which exempts it under the Control of Advertisement (Scotland) Regulations 1984
- 3 The property is potentially at risk of flooding. The applicant should consider water resilient and resistant materials and methods within the building, and sign up to SEPA's flood warning service 'Floodline'.
- 4 This property has no dedicated parking provision. Parking availability on surrounding streets can be very limited at certain times of the day. The applicant is advised to note (and to make users of the facility aware of) public car parks in the surrounding area which include the High Street (over 100 spaces - pay and display); Ladhope Vale (34 spaces - pay and display) and Low Buckholmside (38 spaces - free).

#### DRAWING NUMBERS

Location Plan  
Description of use

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

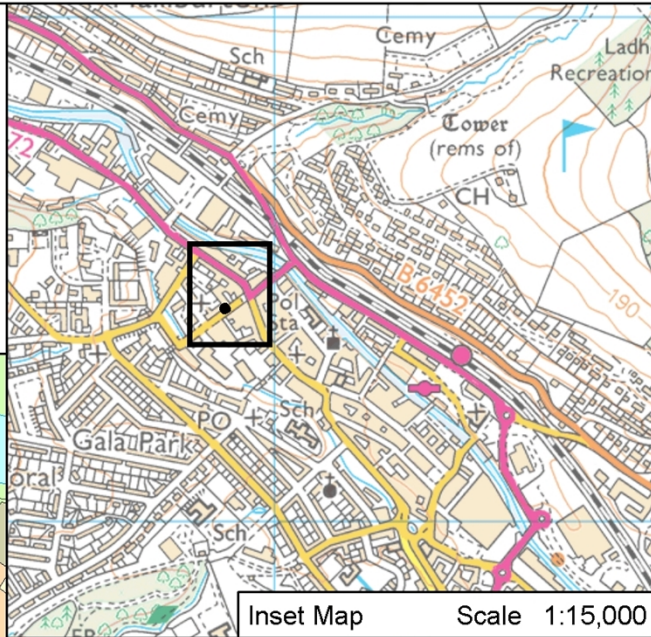
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

#### **Author(s)**

Name	Designation
Carlos Clarke	Lead Planning Officer



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Inset Map Scale 1:15,000



Scale 1:1,000

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