

APPENDIX III

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

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

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

Local Review Reference: 18/00018/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

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 as set out below.

DEVELOPMENT PROPOSAL

The application relates to a retrospective application for the change of use from retail to mortgage shop at 37 Bank Street, Galashiels The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	Scale 1:1250
Current Layout	-
Proposed Layout	-
Photos	-
Specifications	colour reference
Other	photo mock-up

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 17th September 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice); c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; and f) List of Policies, the LRB proceeded to determine the case. They noted the applicant's request for further procedure in the form of written submissions, a Hearing and a site inspection 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, EP9, IS7, and IS9

Other Material Considerations

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

The Review Body noted that the proposal was to change the use of a former retail unit into a mortgage shop and that this would constitute Class 2 Use under Town and Country Planning (Use Classes) (Scotland) Order 1997. In the circumstances, the proposals would not be consistent with the main provisions of Policy ED4 in the Local Development Plan, which indicates a preference for Class1 and Class 3 uses in Core Activity Areas such as Bank Street.

Members noted that the recently approved Town Centre Core Activity Area Pilot Study 2018 applied to Galashiels town centre and was material to their deliberations. The Pilot identifies in Appendix 3 a range of uses, beyond the approved classes, that are now permissible. Whilst the Mortgage Shop did not fall within the extended category list, the Pilot Study amplifies the provisions with Policy ED4 whereby an applicant can justify approval for "other uses" by demonstrating the potential contribution of the proposed use to the retail function of the town. The key factors the Review Body considered in this regard were:

- Contribution to joint shopping trips
- Footfall
- Current vacancy and footfall rates
- Vacancy length
- Marketing history

- **Retention of shop frontage**

The Review Body discussed in detail the nature of the proposed business which sought to create a “non-traditional” mortgage brokerage with the focus on consultation without appointments and a shop frontage designed to attract visiting customers with a more modern look and feel. Members were satisfied that the business would help increase footfall and contribute to joint shopping trips within the town centre. In their view, the business would complement other uses in Bank Street and that there were clear synergies with the estate agent premises in the locality.

Members noted that the business was intending to relocate to Galashiels from Edinburgh and that it would be headquartered at the property. They agreed that it was important to support new businesses moving into the town which would improve its economic attractiveness and vitality.

As the unit had been vacant for around almost 2 years it met the “6 month vacancy test” introduced by the Retail Pilot. Members were satisfied that, despite marketing by property agents, no suitable retail use had been forthcoming for a considerable period of time. In the circumstances, it was legitimate to consider alternative uses for the unit. In their view, the business would complement the variety of different small units in Bank Street, some of them non-retail and improve its attractiveness to visitors and locals alike. It was better to have the unit occupied by this business than see it vacant for a further indeterminate period. Members also took into account that the building had previously been occupied by a firm of solicitors and prior to that by an insurance company, both of which were Class 2 uses.

The Review Body was satisfied that a sufficiently persuasive case had been made to allow the business and that the applicant had demonstrated that the business would make a significant positive contribution to the town centre. In coming to this conclusion, Members also gave cognisance to the reasoning for the recent LRB decision for the provision of a dog grooming business in Bank Street and to the support from the Economic Development Section for the business.

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 Mortgage shop (as defined in the applicant’s supporting statement) 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.

2. The extent of external repainting shall be limited to those parts of the shop front that are currently painted, and shall not extend beyond onto unpainted areas
Reason: To safeguard the special architectural and historic interest of the Listed Building
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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.....20 September 2018