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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 17 September 2018 at 10.00 am

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

In Attendance:- Chief Planning Officer, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF 18/00270/PPP**

There had been circulated copies of the request from Mrs Clare Fleming, per R G Licence Architect, Hillend, Ednam, Kelso for review of refusal of the planning application in respect of erection of dwellinghouse with associated access road, parking area and combined entrance/layby on land west of Langton Birches, Duns. The supporting papers included the Notice of Review; Decision Notice; officer's report; papers referred to in the officer's report; consultation; and a list of relevant policies. Members accepted that there was a building group at Langton Birches and that there was capacity within planning policy to add to that group. They went on to discuss whether the application site, which was within elongated garden ground of Langton Birches, was part of the building group and whether the proposed development would be a suitable addition to the group. In their discussion as to whether the site could accommodate a dwellinghouse Members noted that the application was for planning permission in principle. They also noted that a new shared access/layby arrangement for Langton Birches and the new house had addressed the concerns of the Roads Planning Officer. After a lengthy debate Councillor Fullarton moved that the officer's decision be upheld and the application refused but the motion was not seconded and the majority were in support of the application.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) **the proposal would be in keeping with the Development Plan; and**
- (d) **the officer's decision to refuse the application be reversed and planning permission be granted subject to conditions, an informative and a legal agreement, for the reasons detailed in Appendix I to this Minute.**

2. **REVIEW OF 18/00398/FUL**

There had been circulated copies of the request from Mr Craig Oliver, 27 Marigold Drive, Galashiels, for review of refusal of the planning application in respect of change of use from retail to tattoo studio (retrospective) at 52 Bank Street, Galashiels. Included in the supporting papers were the Notice of Review; Decision Notice; officer's report; papers referred to in the officer's report; consultations; and a list of relevant policies. Members noted that the application was for a Class 2 use and that the site, formerly a retail unit and now vacant, was within the Core Activity Area in Galashiels where policy normally

opposed any uses other than Classes 1 and 3. They also noted that the recently approved Town Centre Core Activity Area Pilot Study 2018 applied to Galashiels town centre and was material to their deliberations. Although the tattoo studio did not fall within the range of uses identified in the Pilot Study beyond the approved classes, Members discussed whether the applicant had demonstrated the potential contribution of the proposed use to the retail function of the town and whether approval could therefore be justified on those grounds.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be in keeping with the Development Plan; and**
- (d) the officer's decision to refuse the application be reversed and planning permission be granted subject to a condition and informative, for the reasons detailed in Appendix II to this Minute.**

3. REVIEW OF 18/00764/FUL

There had been circulated copies of the request from Mr Robin Purdie, 16 High Cross Avenue, Melrose, for review of refusal of the planning application in respect of change of use from retail (Class 1) to mortgage shop (Class 2) and external re-decoration at 37, Bank Street, Galashiels. The supporting papers included the Notice of Review; Decision Notice; officer's report; papers referred to in the officer's report; consultations; and a list of relevant policies. Members noted that the application was for a Class 2 use and that the site, formerly a retail unit and now vacant, was within the Core Activity Area in Galashiels where policy normally opposed any uses other than Classes 1 and 3. They also noted that the recently approved Town Centre Core Activity Area Pilot Study 2018 applied to Galashiels town centre and was material to their deliberations. Although the mortgage shop did not fall within the range of uses identified in the Pilot Study beyond the approved classes, Members attached weight to the fact that the proposal was for a 'drop-in' facility which would retain the traditional shop frontage. Their ensuing discussion focused on whether the applicant had demonstrated that the business would make a positive contribution to the vitality of the town centre.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be in keeping with the Development Plan; and**
- (d) the officer's decision to refuse the application be reversed and planning permission be granted subject to conditions, for the reasons detailed in Appendix III to this Minute.**

The meeting concluded at 11.25 am



APPENDIX I

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS 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: 18/00017/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

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this decision notice subject to conditions, informatives and the applicant entering into a Section 75 agreement as set out below.

DEVELOPMENT PROPOSAL

The application, which is for planning permission in principle relates to the erection of dwellinghouse with associated access road, parking area and combined entrance/layby at garden ground west of Langton Birches, Duns. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	CFPP01
Site Layout Plan	CFPP02 B

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 17 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 Review Body proceeded to determine the case. They noted the applicant's request for further procedure in the form of written submissions and site visit but did not consider these 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: PMD1, PMD2, ED10, HD2, HD3, EP3, EP13, IS2, IS7 and IS9

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Other Material Considerations

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

The Review Body considered the proposal principally against Policies HD2 of the Local Development Plan and the guidance within the New Housing in the Borders Countryside SPG.

The Review Body accepted that there was a building group at Langton Birches, as defined in Policy HD2 of the Local Development 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. As Policy HD2 allows the possibility of 2 further houses to be added to a building group there was potential capacity to allow the proposed house, if the other key policy assessment criteria could be met

Members then debated the boundaries and extent of the building group and concluded that, despite its unusual shape, the garden ground associated with Langton Birches formed part of the group and was included within its sense of place.

The Review Body did not agree that the proposed house would constitute ribbon development. Members were satisfied that the development would be complimentary to the form and character of the building group and that there would be no adverse impacts on the other properties within the group. Whilst they were content in this regard they were concerned about further development along the public road. In their view, the application site

constituted the limit of the group in a westerly direction and no further housing should be allowed beyond the current application site.

In considering the capacity of the site to accommodate a house, Members noted the previous review in 2012 was dismissed on grounds of overdevelopment. However, the decision did not discount the possibility of a house on the site being acceptable. Whilst this was an application for planning permission in principle and no detailed proposal was before them, Members accepted that the site could accommodate a modest dwellinghouse.

The Review Body considered that the revised arrangements shown on drawing CFPP02 B, which illustrated a shared access/layby arrangement for Langton Birches and the new house and the closing off of the existing access to the applicant's property, addressed the concerns about access. They noted that these arrangements were acceptable to the Roads Planning Officer.

The Review Body wished to see the retention, where practicable, of existing trees and hedgerows at the site to retain its rural character and agreed that this along with matters such as the access arrangements and provisions for water and drainage at the site could be addressed by appropriate planning conditions.

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.

DIRECTIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the

Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until further details of the provision of foul and surface water drainage are submitted to, and approved in writing by, the Planning Authority. The details shall include evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

4. No water supply other than the public mains shall be used to supply the Development without the prior written agreement of the Planning Authority.

Reason: To ensure that the Development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

5. No development shall commence until the details of the shared access for Langton Birches and the new dwellinghouse, including the service layby, visibility splays, the parking and turning facilities within the site and the closing off of the existing access to Langton Birches have been submitted to and approved in writing by the Planning Authority. Thereafter, the works shall be implemented in accordance with the agreed details and within an agreed timescale.

Reason: To ensure the site is adequately serviced.

6. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. existing landscaping features, hedgerow and trees to be retained, protected and, in the case of damage, restored. This should include a full tree survey and arboricultural assessment.
- iii. location and design, including materials, of walls, fences and gates
- iv. soft and hard landscaping works
- v. existing and proposed services such as cables, pipelines, sub-stations
- vi. A programme for completion and subsequent maintenance.

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

INFORMATIVES

1. With regards to Condition 5, the Roads Planning officer states that it should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards education facilities in the locality.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

Date.....20 September 2018

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APPENDIX II

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: 18/00020/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

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 informatives as set out below.

DEVELOPMENT PROPOSAL

The application relates to a retrospective application for the change of use from retail to tattoo studio at 52 Bank Street, Galashiels. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	Scale 1:1250

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, IS8 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 tattoo studio 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 indicate 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 tattoo studio 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

Members acknowledged that the business was already operating successfully from the premises and that it had a large number of clients visiting the premises. The business was attracting clients from the Borders, Scotland and beyond to use their specialist services and was also a finalist in the Borders Retail Business Awards 2018.

The Review Body was satisfied that the business was already helping increase footfall and contributing to joint shopping trips within the town centre. They agreed that this was a good business which was an economic asset to the town and should be supported.

As the unit had been vacant for around a year before the applicant started operating 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. 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.

The Review Body noted that the shop frontage has been unaffected by the use since it commenced, and that no alterations are proposed.

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 tattoo studio 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. The Council's Flood Officer recommends that the applicant contacts the Flood and Coastal Management Team on 01835 825035 and signs up to receive early warnings 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 he would recommend that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188.

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.

2. The Environmental Health Officer has highlighted that there may be noise impacts on neighbouring noise sensitive dwellings from machinery and equipment used at the premises and that measures should be taken to ensure that any such impact is minimised.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

Date..... 20 September 2018



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