

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 19/01579/FUL

APPLICANT : Miss Penny Burgess

AGENT :

DEVELOPMENT : Change of use from residential flat to business use

LOCATION: 62 Shawburn Road
Selkirk
Scottish Borders
TD7 4HW

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations have been received.

Consultations:

Community Council: Has concerns about the loss of any existing housing stock in the central residential area of the town. Equally, the community council does not wish to deny any individual an opportunity to operate a small business in the town- although members suggested that vacant (commercial/business) premises are available in more appropriate locations. It is noted that the Government seems keen to promote home working although this assumes that a person would both live and conduct business from the same address where there is no risk of nuisance to neighbours or loss of local amenity. However, in this particular instance, the details submitted show that the applicant has a private address elsewhere and intends to use 62 Shawburn Road solely for business purposes. In conclusion, the community council agreed to remain neutral on this application.

Economic Development Section: No objections.

Roads Planning Officer: No objections.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

ED2 - Employment Uses Outwith Business and Industrial Land;
HD3 - Protection of residential amenity;

Recommendation by - Brett Taylor (Planning Officer) on 20th February 2020

Site description

This application relates to a ground floor flat located on the eastern side of Shawburn Road in Selkirk. The surrounding area is residential. The property is not listed or located within a conservation area.

Proposed Development

This application seeks retrospective consent for the change of use of the property from a residential flat (Sui Generis) to a Class 4 business use. The living room has been converted into an office, the two bedrooms are now stock rooms with the kitchen and bathroom forming part of the applicant's laundry facilities. No changes to on-street parking are proposed.

Planning history

No relevant planning history.

Principle

Having visited the site, I consider the current use of the property as a Class 4 (Business), and would therefore be assessed against Adopted Local Plan Policy ED2, which sets criteria for the location of Class 4 uses. Beyond Policy ED2, there is a need to establish whether or not the change of use is capable of complying with all other relevant planning policies, in this context, most notably Adopted Local Plan Policy HD3 - Protection of Residential Amenity.

Assessment

The site is an existing flatted residential property, but is not designated within the Adopted Local Plan for any other use.

The applicant has provided a supporting statement which advises that the business is called 'Penelope Textiles Limited' and is an Internet based business selling vintage and antique textiles and haberdashery. In the previous four years the business was based at Riverside Mills, however the applicant was required to identify new business premises. The applicant now operates the business from the property which is within her ownership. It is advised that this would allow her business to remain in Selkirk and would meet the business' requirements for a self-contained, quiet premises.

Land Use and Character

Given the application is being assessed against policy ED2 the applicant is required to provide justification for the need for the proposed location and to demonstrate an economic and/or employment benefit. There is also a need to consider whether the proposed use would be capable of coexisting satisfactorily with adjoining uses - see amenity impacts below.

Accordingly, it is appropriate only to assess the proposal in terms of whether or not the proposed use could be appropriately accommodated at the site identified in the application; this is the proposal that the Planning Authority is being asked to assess.

Given the location of the property within a residential area and following a site visit, it was established that the entire property had been converted into a business use with the owner living at another address within Selkirk. As such, I consider that the current use is not ancillary to the authorised use and that a change of use has occurred. The applicant has provided a supporting statement giving an economic justification for the continued use of the property as a business. However, I consider the information provided does not override the requirements of Policy ED2 as it does not justify the need for this location. The case is not a justifiable

reason for the property to cease being used as a flat residential dwelling. The economic benefits of the development, whilst material, will not be substantial. There is also potential to use allocated office and storage space elsewhere in the town and the applicant has not demonstrated why such space is not suitable or available. Putting aside potential conflict with neighbouring uses (considered below), the use has not demonstrated compliance with ED2 in terms of the location. Bearing in mind the growth of internet-based businesses, this type of proposal could be repeated many times over in the area and it is important that its location within a residential context is fully justified

Residential Amenity

Planning Policy HD3 requires that consideration be given to the scale, form and type of development in terms of its fit within a residential area; the impact of the proposed development upon the existing and surrounding properties; the generation of traffic and noise, and the level of visual impact. Policy ED2 also requires that business uses demonstrate they can co-exist satisfactorily with adjoining uses.

The applicant is not proposing to extend the property as the business use is accommodated within the existing property at 62 Shawburn Road. Accordingly, there would be no unacceptable visual impacts on neighbouring properties as a consequence of new-build development.

The applicant's supporting statement has stated that no machinery is operated within the property and that her working hours are usually 9-5 Monday to Friday. Accordingly, it is not considered that the operation of the proposed business would be liable to have any unacceptable noise impacts upon neighbouring properties. With regards to disturbance from increased traffic accessing the site, the numbers of vehicles likely to be involved is not in itself liable to be significant (the Roads Authority has no objections to the proposal). Further, the applicant has advised that a limited number of people currently visit the property and in terms of deliveries arriving, 2 small boxes arrive from France every couple of months and with between 3-6 further deliveries taking place. This is not a significant number. To date it appears that the current state of the business does not have a sufficient impact on neighbouring residential amenity.

However, this could potentially change if the business expands in the future and that would, of course, be welcome if the business were to be successful. Consideration must therefore be given to any potential impact on neighbouring residential amenity should this application be granted and the business becomes more successful. By the very nature of the business requiring deliveries and members of the public potentially visiting the property in potentially increasing numbers, I consider this could have a detrimental impact on neighbouring residential amenity as a result of external activity from persons and vehicles. Whilst a Class 4 use, by definition, should be capable of being carried out without detriment to neighbouring amenity by reason of noise, vibration, smell etc., it is the potential for increased external activity from commercial vehicles and non-residential visitors that could potentially undermine the amenity of neighbouring properties and general residential character of the area. It would be practically difficult for the Planning Authority to monitor and manage the use such that a suitable level of impact can be maintained. This use, quite simply, should be within an industrial area where it can operate without hindrance.

If approved here, conditions could be imposed to limit operating hours and deliveries (from vehicles in the applicant's control) to or from the premises. However, third party activity (from suppliers, clients/customers, deliveries outwith the applicant's control) cannot be enforced. Given the applicant has not demonstrated why this use should be sited here as a matter of principle (applying Policy ED2) it is not considered that a conditional consent is justifiable based on the submitted case. Also, a temporary consent (that would provide the applicant time to find more suitable premises) would only be justifiable if the applicant has a particularly temporary need that is overriding, or the permanent use would be acceptable after a monitoring period. This is not the case here. This matter was discussed with the applicant during a site meeting - it is understood the applicant seeks a permanent consent. The potential amenity implications from a successful business here should not, therefore, be managed by planning conditions - the business should be sited in a location more suited to a commercial business.

Access and Parking

As noted, the Roads Planning Officer has no concerns with respect to access and parking as regards road safety impacts.

Conclusion

It is considered the proposed change of use of the property from residential to Class 4 is contrary to Policies ED2 and HD3 as noted above and that material considerations do not outweigh these conflicts

REASON FOR DECISION :

The retrospective change of use of the residential flat (Sui Generis) would be contrary to Policy ED2 of the Local Development Plan 2016 in that the site is outwith an allocated employment land site and its location within a residential area is not justified. Further, there is the potential that the business may not co-exist suitably with adjoining residential properties contrary to Policy ED2 and Policy HD3, all to the potential detriment of the residential character of the surrounding area and amenity of neighbouring properties

Recommendation: Refused

- 1 The retrospective change of use of the residential flat (Sui Generis) would be contrary to Policy ED2 of the Local Development Plan 2016 in that the site is outwith an allocated employment land site and its location within a residential area is not justified. Further, there is the potential that the business may not co-exist suitably with adjoining residential properties contrary to Policy ED2 and Policy HD3, all to the potential detriment of the residential character of the surrounding area and amenity of neighbouring properties

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