

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

APPLICANT STATEMENT PREPARED ON BEHALF OF

MR STEPHEN LAMB

Development: Planning Permission for Part Change of Use
Ground Floor to Class 10 and Alteration to Form Additional
Office Space from Attic Floor (21/00486/FUL)

Location: 3 Rowan Court, Suite 3, Cavalry Park, Peebles,
EH54 9BU

Date: 5 July 2021

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1.0 INTRODUCTION AND SUMMARY OF REVIEW

- 1.1 Scottish Borders Council has refused planning permission under delegated powers for Planning Permission for ‘part change of use ground floor to Class 10 and alteration to form additional office space from attic floor’ (21/00486/FUL) at 3 Rowan Court, Suite 3, Cavalry Park, Peebles, EH54 9BU. The refusal reason is as follows:

The development would be contrary to policies ED1 and PMD3 of the Local Development Plan 2016 in that the use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes)(Scotland) Order 1997) would not be a commercial activity that would be complementary or ancillary to the Cavalry Park Strategic High Amenity Site and would result in the loss of high quality office accommodation and its replacement with potentially less attractive accommodation. This would not serve to protect the business park adequately for employment purposes. This conflict with the Development Plan is not overridden by other material considerations.

- 1.2 We disagree with the refusal reason for the following reasons, in summary:

1. The proposal does not conflict with Policy ED1. The development includes the creation of office space at first floor level which the existing occupiers, Valley Landscaping and DDL Care Services Ltd, intend to occupy in order to operate their already established businesses. The creation of the office space is integral to the development proposals and will be fully operational prior to completion of the Class 10 Care Hub facility. The assertion that the proposed development will result in potentially less attractive accommodation is not based on evidence.
2. The proposed development is complementary to the existing uses operating within Cavalry Park. The day-care facilities will sit well within an area that also provides a Children’s Nursery, Hairdressing & Beautician Salon, a Dental Practice, Specialist Shoe Shop, Physiotherapist, Fitness Centres along with education and training accommodation. The Care Hub facility will provide employment opportunities as well as supporting other businesses within Cavalry Park, stimulating the local economy. At least 5 members of staff will be required to run the Care Hub facility.
3. The Council are at liberty to attach a condition to the Planning Permission, which will require the Care Hub facility accommodation to revert to business use if the Care Hub facility ceases to operate. This will allow the Council to ensure future uses of the premises remain appropriate.
4. The proposed development can take place in accordance with the provisions of Policy PMD3. Part c of the Policy allows for the development of alternative uses which offer significant community benefit to take place that are considered to outweigh the need to maintain the original proposed use. As the Applicant’s Statement and supporting submission documents demonstrate, the development of Care Hub facility will provide much needed community facilities. Furthermore, the proposed development ensures that the ‘original proposed use’ i.e. office space is retained within the building.

- 1.3 We expand upon these points in the following sections of this Statement.

2.0 BACKGROUND TO THE PROPOSALS



Existing Occupiers and Their Office Space Requirements

- 2.1 Number 3 Rowan Court is occupied by two established businesses:
- 2.2 DDL Care Services Ltd is a local company, which provides home based personal care services within Peebles and the wider area. It is a Scottish Borders Council care partner and has developed a reputation as one of the area's most trusted providers. The business is fully registered with the Care Inspectorate. It has a total of 42 members of staff engaged directly in the delivery of homecare services and supporting administrative functions. The premises provide the administrative base for the Company, where 8 members of staff are permanently based.
- 2.3 Valley Landscaping, which is owned by the Applicant, Mr Stephen Lamb, is a Scottish ground maintenance company, which presently has 7 employees and has plans to expand with the addition of a further 3 to 5 jobs expected. The premises provide the Scottish Borders base for the Company, where presently 1 employee is located.
- 2.4 DDL Care Services Ltd and Valley Landscaping will continue to require office premises and intend to occupy the office premises created at first floor by the proposed development. No business operations will be displaced by the proposed development and the new office accommodation will be constructed and occupied prior to the operation of the care facility.

'The Care Hub' Facility

- 2.5 DDL Care Services Ltd's sister company, DDL Care Hub Ltd has identified a requirement for day-care facilities within the community for adults and older people, with high level care needs including dementia and health issues. The use is classified as a 'Class 10 – non

residential institution' use by the Town and Country Planning (Use Classes) (Scotland) Order 1997, herein after referred to as the Use Classes Order.

- 2.6 The proposed Care Hub facility is designed to meet these needs and will require at least 5 new employees to run the operation, which will also outsource catering, beautician, exercise trainer and podiatrist services.
- 2.7 This new facility will fill the void left behind by the closure of services in the area. It will offer a significant benefit to our community whilst helping relieve some of the pressure on the NHS and social work resources locally. It is expected that the facility will support 50 to 75 people per week who would otherwise be socially isolated within their own community.
- 2.8 The Supporting Statement, which accompanies the Application explains that facilities have dramatically reduced in past years with day-facilities at Dunwhinny, Hay Lodge Hospital, Victoria Park and Firholm¹ no longer available.
- 2.9 The situation has been exacerbated by the Covid 19 pandemic with the loss of a NHS Day Hospital Unit that enabled patients to attend for occupational therapy and Physio assessments, obtain treatments, shower, and bathe, and access the Falls Clinic. Organisations like WRVS, the Men's Shed, and local churches are no longer able to provide a place for older people to meet socially. In addition, these facilities do not meet the needs of people with 'high care needs.'
- 2.10 The current day service run by the Royal Voluntary Services from the Bake House, Peebles employs one paid manager and is supported by volunteers, no formal training is required therefore the service is unable to accept referrals from people who have high level needs. As a result, people with the following care needs are excluded:
- Medication prompting
 - Medication administration
 - Incontinence care
 - Catheter management
 - Assistance using bathroom facilities
 - Advanced dementia
 - Moving and Handling requirements
- 2.11 The closure and reduced function of facilities leaves Adults and Older people in the community with:
- Increased social isolation, a lack of interaction and increased levels of anxiety.
 - Feelings of loneliness and poor mental health.
 - Reduced cognition

¹ An out-reach service is operated from Firholm but the day facility is no longer in operation.

- A decrease in mobility and movement due to inactivity.

- 2.12 The Care Hub facility is intended to be complementary to the existing community-based facilities, both Council run and commercial enterprises, that remain and will exist in support of Scottish Borders Council's model of care.
- 2.13 The facilities at the Care Hub will provide an alternative to the traditional concept of 'day care centre' by offering a range of opportunities and these are detailed in the Application Supporting Statement
- 2.14 The proposed Care Hub includes meeting facilities which are designed to be utilised by Primary Carer support groups for example Carers Centre and Alzheimer's Scotland.
- 2.15 This new facility will fill the void left behind by the closure of previous services. It will offer a significant benefit to our community whilst helping relieve some of the pressure on the NHS and social work resources locally.
- 2.16 Since submitting the Application, DDL Care Hub Ltd, has updated their business plan and this is provided with the submission. It demonstrates the need for the facility and the considered approach towards its provision.

Accommodating the Requirements

- 2.17 Due to the nature of the operation, the new Care Hub facility has obvious accommodation requirements:
- Ground floor level access and accommodation which can be easily traversed by people with impaired mobility.
 - Flexible floor space to accommodate the specific requirements for a day centre, required to meet the relevant regulatory requirements;
 - Immediate access to level car parking which can also accommodate an operator's mini-bus used for transporting the day centre's clients;
 - Access to public transport for staff and users of the facility; and
 - Attractive outlook for clients.
- 2.18 These requirements can all be met at the Application site at 3 Rowan Court, Cavalry Park, whilst meeting the office requirements of the existing occupiers. Appropriate alternative accommodation for such a facility is not available in Peebles, including the town centre, where older buildings with unsuitable access and layouts are located and immediate access to parking for people with mobility issues and facilities to accommodate the drop off / pick up of clients by mini-bus are not available.
- 2.19 Alternative premises are being marketed in Cavalry Park, however their configuration and access to parking prevent these premises from being further considered.
- 2.20 The Application drawings, Ground Floor Plan proposed and First Floor Plan proposed, illustrate the proposed ground and first floor layouts.
- The building presently has a floor area of 258 sq m.

- It is proposed to convert 189 sq m at ground floor level to Class 10 Use i.e, Care Hub facility.
- The remaining floor space at ground floor level, 54 sq m (excluding the stair to the first floor office space) will be retained in Class 4 – Business use and will be accessible from a new separate entrance door.
- The proposed layout will allow the ground floor Class 4 - Business area to function separately from the Care Hub facility, with secure lockable doors providing access between the 2 uses, should this be required.
- At first floor, Class 4 office space, accessible from the new separate entrance door, will be created. The total area of new usable space at first floor level will be 149 sq m. The new office space will be occupied by the existing occupiers.
- The proposed development will see the floor area within the building increase from 258 sq m to 392 sq, providing a Class 10 Care Hub facility with an area of 189 sq m and 203 sq m of Class 4 office space.
- The net reduction in Class 4 space is 55 sqm, however the businesses operating from the site will not be impacted upon, as they relocate to the first floor, with at least a further 5 jobs created by the new Care Hub facility.

3.0 ASSESSMENT OF REFUSAL REASON

REFUSAL REASON

- 3.1 Refusal Reason is stated as follows:

The development would be contrary to policies ED1 and PMD3 of the Local Development Plan 2016 in that the use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes) (Scotland) Order 1997) would not be a commercial activity that would be complementary or ancillary to the Cavalry Park Strategic High Amenity Site and would result in the loss of high quality office accommodation and its replacement with potentially less attractive accommodation. This would not serve to protect the business park adequately for employment purposes. This conflict with the Development Plan is not overridden by other material considerations.

ASSESSMENT OF POLICY ED1: PROTECTION OF BUSINESS AND EMPLOYMENT LAND

- 3.2 The full text of the relevant part of Policy ED1 to which the refusal reason is referring is as follows:

Policy ED1: Protection of Business and Industrial Land

The Council aims to maintain a supply of business and industry land allocations in the Scottish Borders (see Table 1)². There is a presumption in favour of the retention of industrial and business use on strategic and district sites, including new land use proposals for business and industrial land.

1. STRATEGIC SITES

The Council rigorously protects strategic business and industrial sites for employment uses.

a) Strategic High Amenity Sites

Development on Strategic High Amenity Sites will be predominantly for Class 4 uses. Other complementary commercial activity e.g., offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location...

....In all business and industrial land site categories development must:

a) respect the character and amenity of the surrounding area, and be landscaped accordingly, and

b) be compatible with neighbouring business and industrial uses.

Shops and outright retail activities will not be allowed on Strategic or District sites. The only retailing permissible on these sites will be that which is considered to be ancillary to some other acceptable activity (e.g., manufacture, wholesale). For the purposes of this policy, ancillary is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area.

² Cavalry Park is identified as a Strategic Site in Table 1

- 3.3 The relevant section of the Planning Officer's Report of Handling is reproduced below:

The use as a day centre for the elderly is not one which would be complementary nor would it enhance the wider Cavalry Park site. There are pressures to find new business and industrial land within the Tweeddale area. The development of a class 10 use at this location, would lead ultimately to the loss of allocated business and industrial land when there is known pressure for business and industrial land and introduce a use that is not a complementary neighbour to business uses.

Forward Planning advises that the council carries out an annual Employment Land Audit (ALE), the purpose of which is to monitor business / industrial land take-up across the Scottish Borders. This helps the council ensure it has a sufficient land supply within the LDP. The most recent ALE was in spring of 2019 and identified that there is no immediately available employment land in Peebles with 0.7ha available employment land between 1-5 years. Forward Planning does not consider this is sufficient land to meet the anticipated demand. Consequently it is vital that existing employment land supply is retained and further land is allocated for this purpose. The protection of the application site for business uses and the identification of further employment land at Eshiels has been taken forward into the proposed new Local Development Plan. The development of a class 10 use at this location, would ultimately lead to the loss of ground floor allocated business and industrial land and the proposal would therefore be contrary to policy. I have no reason to question that assessment.

- 3.4 We address Policy ED1 and Report of Handling's response under the headings below.

Provision of Class 4 Office Space

- 3.5 As we have outlined in Section 2 above, the proposed development increases the overall floor area within the building, increasing the usable floor space from 258 sq m to 392 sq m. It comprises the creation of Class 10 use for a new Care Hub facility (189 sq m) and provides for a total of 203 sq m of office space split between ground and first floor level.
- 3.6 In its assessment of the proposal against Policy ED1, the Report of Handling (which includes detail of Forward Planning's consultation response), does not acknowledge that part of the ground floor will be retained in Class 4 Use or that Class 4 office accommodation is to be provided at first floor office level. Instead, it focusses on the loss of ground floor accommodation required for the Care Hub facility and the impact that this would have on business / industrial land supply. The Report of Handling's assessment of the Policy is therefore misleading and inaccurate.
- 3.7 As we have outlined in Section 2 above, whilst there is a net loss of 55 sq m of Class 4 office space, the overall usable floor area will increase. The building's existing occupiers will utilise the new first floor accommodation to operate their established businesses which employ 9 people on site. There will be no loss of employment as a result of the development, with at least 5 new direct jobs created by the Care Hub facility.

Nature and Mix of Business Operations at Cavalry Park

- 3.8 Policy ED1 supports the development of **predominantly** Class 4 at Cavalry Park and it does not exclude other uses. Class 4 – Business of the Use Classes Order, covers offices other than those within Class 2 (financial professional and other services), research and development and any industrial processes, all being uses that can take place in a residential area without detriment to the amenity of that area.
- 3.9 Cavalry Park has a range of occupiers and a list of occupiers accompanies the Statement. The nature of the occupiers is wide ranging and is not limited to Class 4 use. It includes a mix of ‘Class 4 business’ uses as well as ‘Class 2 – Financial, professional and other services’ e.g. estate agents and dentists and ‘Class 11 – Assembly and leisure’ e.g. gym. It is occupied by a hairdresser, which falls within ‘Class 1 – Shops’ of the Use Classes Order and is a use which the Policy advises ‘will not be allowed on Strategic or District sites.’ Established Class 10 – Non-Residential Institutions also occupy premises at Cavalry Park including Kingsmeadows Nursery and a music school. In addition, Permission has been granted for further Class 10 Uses within Cavalry Park which comprise training facilities (ref: 06/02165/FUL and 08/01525/FUL).
- 3.10 The Report of Handling contends that the new Care Hub facility would not be complementary nor would enhance the wider Cavalry Park. We disagree with this assessment. The Applicant’s Supporting Statement identifies that the facility will benefit many of the existing businesses. The Care Hub will sit well within an area that also provides a Children’s Nursery, Hairdressing & Beautician Salon, a Dental Practice, Specialist Shoe Shop, Physiotherapist, Fitness Centres along with education and training accommodation. As highlighted in Section 2 of this LRB Statement, the Care Hub will outsource catering, beautician, exercise trainer and podiatrist services and these services are established at Cavalry Park.
- 3.11 The proposed development does not conflict with the character and amenity of the surrounding area and is compatible with neighbouring businesses on the site.

The Use of Planning Condition(s) to Secure Appropriate Future Uses

- 3.12 We have outlined above that the proposed development increases the usable floor area of the building, increasing it from 285 sq m to 392 sq m. The Council can, should it consider it appropriate to do so, attach a condition to the Permission, which would require the area to be occupied by the Care Hub facility to revert to Class 4 use upon cessation of the operation. This approach provides a number of benefits:
- It allows the Council to control future use of the area to be occupied by the Care Hub facility;
 - It allows the Care Hub facility to operate and meet community needs whilst ensuring business use of the premises is not lost in future;
 - It allows additional business space to be created within the premises, which in the longer term, should the Care Hub facility cease to operate, will increase the overall amount of business space available at Cavalry Park.

- 3.13 Precedent for application of such a condition exists within Cavalry Park and we direct the Local Review Body to Condition 1 of Permission ref: 18/01756/FUL for Change of use from storage to a gymnasium at Unit 5 Elm Court, Cavalry Park which states,

The premises shall be used only as a gymnasium and for no other purpose (including any other purpose in Class 11 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). On the cessation of the unit as a gymnasium, the use shall revert to Class 4 (business).

Reason: To ensure that the use remains compatible within the site

ASSESSMENT OF POLICY PMD3: LAND USE ALLOCATION

- 3.14 The full text of the relevant part of Policy PMD3 to which the refusal reason is referring is as follows:

Policy PMD3: Land Use Allocations

Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps...

...Any other use on allocated sites will be refused unless the developer can demonstrate that:

- a) It is ancillary to the proposed use and in the case of the proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, **or***
- b) There is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, **or***
- c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, **and***
- d) the proposal is otherwise acceptable under the criteria for infill development.*

- 3.15 The relevant section of the Planning Officer's Report of Handling is reproduced below:

*Considering the above, the proposed change of use to a day centre for the elderly would be neither ancillary nor complementary to the wider Cavalry Park site. There are no known constraints on the site which would prevent the building's continued use as class 4. **There may be some community benefits but those are not significant enough to outweigh the need to maintain the existing use.** In addition, **the applicant has failed to provide evidence***

that there are not any other potential sites / buildings which have been considered for the proposed use.

It should also be noted that, although the plans indicate that "zone 2" would be retained as class 4 use, the physical separation from the rear entrance and upper floor, combined with the newly formed internal links between the proposed class 10 use and the area marked as "zone 2 - training - conference", make it clear that the area would at best be ancillary office space associated with the applicant's business rather than two separate units. It is acknowledged that the proposal includes the provision of class 4 floor space within the roofspace. However, as noted by Forward Planning, this is replacement rather than additional floor space. In addition, first floor office space is less attractive than ground floor accommodation and, combined with the significant ceiling coombes, the office space proposed in this application is likely to be even less desirable. In their consultation response Forward Planning indicated that a more favourable consideration could be given if it were possible to ensure the upper floor element could be implemented. Whilst a condition could be imposed requiring the actual provision of the office space within the roofspace, that could be retained by the applicant as ancillary office space or it could simply be formed with the provision of partitions and left unoccupied. The success of such space will depend a lot on its marketing and terms of occupancy. It would not be possible, nor appropriate, for the planning authority to attempt to regulate the marketing and occupancy of business space to benefit a use that is not, itself, complementary to the business park. The replacement accommodation would evidently be inferior to the existing ground floor accommodation, and I do not consider it in the interests of the business park to provide a Class 10 on the ground floor and thus relegate office accommodation to the first floor. It is considered, in any case, likely that a condition that would involve regulation of the marketing and occupancy of the first floor accommodation would potentially unenforceable and would not be compliant with the requirements set out in Planning Circular 4/1998: the use of conditions in planning permissions. I do not consider the proposal would be adequately mitigated by a planning condition as a result.

- 3.16 **Unfortunately, the sections highlighted in yellow are incorrect and appear to be based on fundamental misunderstanding of the circumstances and inaccurate assumptions.** We address these in turn below.

There may be some community benefits but those are not significant enough to outweigh the need to maintain the existing use.

- 3.17 Policy PMD3 sets out situations where a development for a non-allocated use may take place. Sub-sections of Policy PMB3 are parts c and d are relevant, which in summary, provide for development where there are significant community benefits which outweigh the original proposed use; and the development is acceptable in terms of the LDP's infill criteria.
- 3.18 The Supporting Statement provided with the Application identifies that there is a requirement for day care facilities within the area, which follows on from the closure of a number of facilities and the impact that the COVID 19 pandemic has had on facilities run by community organisations. The Care Hub facility is being proposed by an experienced

and respected care provider working in the local area, who seeks to provide a facility that will complement the Scottish Borders Council's model of care.

- 3.19 This detail has not been reflected in the Report of Handling which dismisses the community benefits without any detailed consideration or the benefit of any relevant consultee responses, which could have included, the Scottish Borders Health and Care Social Partnership and the NHS.
- 3.20 Whilst the Applicant's Supporting Statement provides an accurate assessment of the requirement for the Care Hub facility, we have provided DDL Care Hub Ltd's up to date business plan with the LRB submission which illustrates in greater detail the need and basis for the facility.
- 3.21 With reference to category d of Policy PMD3, the LDP's infill criteria are laid out in Policy PMD5 and this is addressed in Section 4 of this Statement.
- 3.22 We conclude that the proposed development complies with the requirements of Policy PMD3, there is a need for the Care Hub facility and it accords with the provisions of Policy PMD5.

the applicant has failed to provide evidence that there are not any other potential sites / buildings which have been considered for the proposed use.

- 3.23 We have been unable to establish the basis for the Council's argument that the Applicant should provide evidence regarding the availability of alternative potential sites however, the Forward Planning consultation response makes reference to Scottish Planning Policy Paragraphs 69 and 71 as follows.

SPP paragraph 69 states: "Planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses are developed in the most appropriate locations. It is important that community, education and healthcare facilities are located where they are easily accessible to the communities that they are intended to serve".

Furthermore, SPP paragraph 71 states: "Where development proposals in edge of town centre, commercial centre or out-of-town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable."

- 3.24 These extracts concern development within Town Centres and this is not made clear in the consultation response or the Report of Handling. It has to be assumed that Forward Planning consider that the development of a day care facility is most appropriately located within a town centre.
- 3.25 As we have highlighted in Section 2 of this Statement, due to the nature of the operation, the new Care Hub facility has obvious accommodation requirements. These requirements can all be met by the Application site at 3 Rowan Court, Cavalry Park, whilst meeting the office requirements of the existing occupiers. Alternative accommodation for such a facility is not available in Peebles, including the town centre, where older buildings with unsuitable access and layouts are located and immediate access to parking for people with mobility

issues and facilities to accommodate the drop off / pick up of clients by mini bus are not available.

- 3.26 SPP paragraph 69 states that facilities are to be located where they are easily accessible to the communities that they intend to serve and that a 'flexible and realistic' approach needs to be taken to ensure development takes place in the right locations. Within the town centre, the vehicular access constraints and the nature of accommodation, would not support a Care Hub facility.

although the plans indicate that "zone 2" would be retained as class 4 use, the physical separation from the rear entrance and upper floor, combined with the newly formed internal links between the proposed class 10 use and the area marked as "zone 2 - training - conference", make it clear that the area would at best be ancillary office space associated with the applicant's business rather than two separate units.

- 3.27 The statement in the Report of Handling is incorrect and is an assumption which is not based on any evidence. As we have highlighted in Section 2 of this Statement and as illustrated on the 'Ground Floor proposed plan' Application drawing:

- It is proposed to convert 189 sq m at ground floor level to Class 10 Use i.e, the Care Hub facility.
- The remaining floor space at ground floor level, 54 sq m (excluding the stair to the first floor office space) will be retained in Class 4 – Business use and will be accessible from a new separate entrance door.
- The proposed layout will allow the ground floor Class 4 - Business area to function separately from the Care Hub facility, with secure lockable doors providing access between the 2 uses, should this be required.

- 3.28 *first floor office space is less attractive than ground floor accommodation and, combined with the significant ceiling coombes, the office space proposed in this application is likely to be even less desirable*

- 3.29 The Report of Handling assumes that the office space at first floor level is less attractive and constrained. This is incorrect. We have highlighted in Section 2 of this Statement details of the accommodation to be provided. This is desirable and usable office space.

- At first floor, Class 4 office space, accessible from the new separate entrance door, will be created. The total area of new usable space at first floor level will be 149 sq m. The office space will be occupied by the existing occupiers.
- The net reduction in Class 4 space is 55 sqm, however the businesses operating from the site will not be impacted upon, as they relocate to the first floor. At least a further 5 jobs will be created by the new Care Hub facility.

- 3.30 *more favourable consideration could be given if it were possible to ensure the upper floor element could be implemented. Whilst a condition could be imposed requiring the actual provision of the office space within the roofspace, that could be retained by the applicant as ancillary office space or it could simply be formed with the provision of partitions and*

left unoccupied. The success of such space will depend a lot on its marketing and terms of occupancy. It would not be possible, nor appropriate, for the planning authority to attempt to regulate the marketing and occupancy of business space to benefit a use that is not, itself, complementary to the business park.

3.31 As we have highlighted above, the existing occupiers will be relocated to the first floor office accommodation. Indeed, relocation of their operations is necessary as part of the proposal and they will occupy the office accommodation prior to the operation of the Care Hub facility. The Applicant is content, for a condition to be attached to the permission requiring the construction of the first floor office accommodation in advance of operation of the Care Hub facility.

3.32 It is relevant to note that the Council's Forward Planning response states that,
If it was the case that planning controls could be put in place which could ensure the office element on the upper floor would be implemented, then the proposal could be considered more favourably, i.e. there would remain a net office floor space within the building whilst also ensuring the care unit could operate. However, if this is not able to be controlled then it is not considered the proposal can be supported.

3.33 As we state above, the Applicant is content that a condition is applied which requires the construction of the first floor office accommodation in advance of operation of the Care Hub facility and this addresses Forward Planning's comments.

3.34 The Report of Handling suggests that the first floor premises office space may be ancillary to the Care Hub facility or that the premises would simply remain vacant. These are poorly considered comments. We have explained that the building's current occupiers will occupy the first-floor office accommodation. Any office accommodation required as part of the Care Hub facility would be ancillary and provided within the area identified for the facility. In addition, where income can be generated from the creation of new floor space, it is in the Applicant's commercial interest to maximise revenue from the development.

It is considered, in any case, likely that a condition that would involve regulation of the marketing and occupancy of the first floor accommodation would potentially be unenforceable and would not be compliant with the requirements set out in Planning Circular 4/1998: the use of conditions in planning permissions.

3.35 As we have highlighted above, the Applicant requires to take forward the development of the first floor accommodation and is content that an appropriate condition is attached to the consent. Circular 4/1998 sets out the tests for the use of conditions and these should be imposed where they are:

- Necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise

- reasonable in all other respects.

3.36 These tests are met. The Planning Authority can legitimately take enforcement action, should the Applicant fail to take forward development of the first floor office space. Such action can include serving a Breach of Condition Notice or Enforcement Notice, both of which can carry substantial fines.

4.0 CONSIDERATION OF FURTHER DEVELOPMENT PLAN POLICIES

- 4.1 In addition to Policies ED1 and PMD3 of the Scottish Border Local Development Plan, a number of other policies are also relevant to the determination of the Application.
- 4.2 **Policy PMD5 – Infill Development**, as the title suggests addresses ‘infill development,’ including the reuse of buildings within Development Boundaries. It states that proposals will be supported where the following criteria are satisfied:
- A) Where relevant, it does not conflict with the established land use of the area; and*
- 4.3 We have established that the development can take place at the Application site, without conflicting with the established land uses within Cavalry Park. In particular, the existing occupiers within the premises will relocate to the office space at first floor level with no impact on their existing businesses and no loss of employment.
- B) Does not detract from the character and amenity of the surrounding area; and*
- 4.4 The proposed works are substantially internal, with minor external alterations including a new access to the rear and the creation of windows at first floor level. There will be no impact on the character and amenity of the area.
- C) The individual and cumulative effects of the development can be sustained by the social and economic infrastructure and does not lead to over-development or ‘town and village cramming’; and*
- 4.5 The proposed development will support social and economic infrastructure, providing much needed day care facilities, 5 new direct jobs and support local businesses through the outsourcing of services.
- d) Respects the scale, form, design, materials and density in context of its surroundings; and*
- 4.6 As referred to above, the proposed works are minimal and are appropriate to their surroundings.
- E) Adequate access and servicing can be achieved, particularly taking into account of water and drainage and schools capacity; and*
- 4.7 The Council’s Roads consultation response raises no objection in respect of access and transport. Indeed, the ease of immediate vehicle access to the premises is an important requirement for the facility, where clients often have restricted mobility.
- F) It does not result in and significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.*
- 4.8 The proposed development will not result in any impact.
- 4.9 **Policy PMD1: Sustainability** sets out the Sustainability Principles which developers are expected to incorporate into developments and these are set out below. **In particular the proposed development supports Category J – support to community services and facilities; and Category K - The provision of new jobs and support to the local economy.**

A) The longterm sustainable use and management of land

4.10 The proposed development is located within the established urban area. The premises which are subject to the Application can fully accommodate the Applicant's requirements, with minimal change. The premises are well located to meet the required care needs of Peebles and the surrounding area.

B) Preservation of air and water quality

4.11 There is not expected to be any additional impact on air and water quality.

C) The protection of natural resources, landscapes, habitats and species

4.12 The proposed development will take place in established premises and will not impact on natural features.

D) The protection of the built and cultural resources.

4.13 The proposed development will take place in established premises and will not impact on such resources.

E) The efficient use of energy and resources, particularly non-renewable resources.

4.14 The proposed development will take place in established premises and will not impact on such resources.

F) The minimisation of waste, including waste water and encouragement to its sustainable management.

4.15 The proposed development will take place in established premises and will not impact on such resources.

G) The encouragement of walking, cycling, and public transport in preference to the private car.

4.16 The proposed development is located within the established urban area and has good links to public transport. The nature of the use requires clients with limited mobility to have easy access by vehicle and mini-bus and the premises meet these requirements.

H) The minimisation of light pollution

4.17 The proposed development will have no impact on lighting of the area.

I) The protection of public health and safety.

4.18 The proposed development will have no impact on health and safety.

J) The support to community services and facilities.

4.19 The proposed development wholly supports necessary community services and facilities by providing a care facility which is required to meet the needs of the community.

K) The provision of new jobs and support to the local economy

- 4.20 The proposed development supports the existing businesses which occupy the premises and employ 9 members of staff on site. A further 5 direct jobs will be created by the new Care Hub facility. In addition, outsourcing of services for the Care Hub including catering, beauty, optical and podiatry will generate business within the local community.

L) The involvement of the local community in the design, management and improvement of their environment.

- 4.21 The Care Hub facility intends to support community carer support groups and this is outlined in Section 2 above and the Application Supporting Statement.

- 4.22 **Policy PMD2 - Quality Standards** seeks to ensure that all development is expected to be of high quality. The Policy sets out comprehensive Sustainability, Placemaking & Design, Accessibility, Green Space, Open Space & Biodiversity requirements. Many of the standards relate to new built development, however specific relevant standards are noted below:

G) It considers, where appropriate, the long term adaptability of buildings and spaces

- 4.23 The proposal creates office floor space at first floor level. The premises allow for the adaption of the ground floor for a Care Hub facility. A condition can be applied to the Permission which will require the premises to revert to Class 4 Use on cessation of the Care Hub facility.

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 compliment 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 with the site.

- 4.24 The proposed development will result in minimal alterations to the premises and compliment the building and surrounding area. The proposal is fully contained within the site.

P) It incorporates, where required, access for those with mobility difficulties.

- 4.25 The ground floor Care Hub facility is easily accessible for its client base, many of whom will have restricted mobility. The availability of car parking and space for the drop-off / pick-up of clients in a mini bus is an important factor in selection of the premises for the provision of the Care Hub facility.

5.0 CONCLUSION

- 5.1 DDL Care Services Ltd and Valley Landscaping are successful business operating from the Application site, 3 Rowan Court, Cavalry Park, Peebles. They wish to continue to operate from the premises, where 9 employees in total are based.
- 5.2 DDL Care Services Ltd is a respected provider of home based personal care services within Peebles and the wider area. It is a Scottish Borders Council care partner. Against a backdrop in a reduction of day care facilities including permanent closures and loss of facilities, as a result of the COVID 19 pandemic, its sister company, DDL Care Hub Ltd has identified a requirement for a Care Hub facility for adults and older people with health and care needs. It has identified the ground floor premises at 3 Rowan Court as a suitable location for the development of such a facility. Alternative premises within the town centre and Cavalry Park are not suitable for an operation which requires ground level, flexible floor space and good access comprising accessible car parking and space for client drop-off and pick-up, especially for those with impaired mobility.
- 5.3 The proposed development, which is the subject of the LRB submission, comprises the creation of first floor office space and a Class 10 Care Hub facility which will partially occupy the ground floor. The proposed development will allow the established businesses to continue to operate from the premises, whilst providing for the Care Hub facility without any loss of employment or business operations at Cavalry Park. Indeed, at least a further new 5 jobs plus business outsourcing opportunities will be created by the development.
- 5.4 We consider the proposed development is supported by the Development Plan including Policies ED1 and PMD3. It provides Class 4 office space and the Care Hub facility is complementary to the business operations within Cavalry Park. Cavalry Park is home to a range of uses including Class 10 uses. The development of day-care facilities addresses identified community needs and can be supported.
- 5.5 The Applicant supports the use of a condition which will secure the development of the first floor office space prior to the commencement of the operation of the Care Hub facility and this should serve to re-assure the Council that the office space will be developed.
- 5.6 The Applicant also supports the use of a condition which will require the area to be utilised for Class 10 Care Hub facility to revert to Class 4 use on cessation of the Care Hub facility operation. This will allow:
 - the Council to control future use of the area to be occupied by the Care Hub facility;
 - the Care Hub facility to operate, meeting community needs whilst ensuring business use of the premises is not lost in future;
 - additional business space to be created within the premises, which in the longer term, should the Care Hub facility cease to operate, will increase the overall amount of business space available at Cavalry Park.
- 5.7 We respectfully request the Local Review Body grants Planning Permission for the proposed development which supports community care, the local economy and local employment.