

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/00793/FUL

APPLICANT : Ms Ha Pham

AGENT : Aditus Architectural Services

DEVELOPMENT : Partial change of use of shop and alterations to form manager's flat

LOCATION: Shop
43 High Street
Hawick
Scottish Borders
TD9 9BU

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
[1] 2106-05	Location Plan	Refused
[1] 2106-02	Existing Elevations	Refused
2106-01A	Existing Plans	Refused
[1] 2106-03	Proposed Plans & Sections	Refused
[1] 2106-04	Proposed Elevations	Refused
[1] 2106-06	Proposed Site Plan	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Flood Risk Officer: No objection. Hawick FPS investigations confirm that the site is not at risk of flooding.

Roads Planning: No objection. Development is unlikely to significantly increase vehicular movements and adequate on street parking provision exists to serve this proposal.

PLANNING CONSIDERATIONS AND POLICIES:

In determining the application, the following policies and guidance were taken into consideration:

Scottish Borders Council Local Development Plan 2016:

Policy PMD2: Quality Standards
Policy ED3: Town Centres and Shopping Development
Policy ED4: Core Activity Areas in Town Centres
Policy HD3: Residential Amenity
Policy EP9: Conservation Areas
IS2: Developer Contributions
IS4: Flooding

IS7: Parking Provisions and Standards
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

SPGs

Householder Developments (Privacy and Sunlight Guide) (2006)
Waste Management (2015)
Development Contributions (2016)
Placemaking and Design (2010)

Other Considerations

Town Centre Core Activity Area Pilot Study
Circular 1/1998 Use Classes Order

Recommendation by - Scott Shearer (Planning Officer) on 6th October 2021

This application seeks consent for the change of use of part of ground floor and basement of 43 High Street, Hawick from Class 1 Shop space to Class 9 residential accommodation. External alterations are proposed to the rear area to assist with the change of use which include new window openings, replacement door, rooflights and a stepped access.

Policy Context

The site is located within the Core Activity Area of the Town Centre, Policy ED4 would normally apply. This policy did not allow for uses other than Class 1 or 3 within the ground floor of properties within the Core Activity Area. Since the adoption of the LDP the Town Centre Core Activity Area Pilot Study was approved to reinvigorate the town centres of Hawick and Galashiels. The Pilot Study temporality removed the Core Activity Area from Hawick with the Study recommending that proposals within this area should be tested against Policy ED3 Town Centre and Shopping Development. Policy ED3 is less restrictive than ED4 and enables a range of uses within the town centre area under the proviso that the proposed development seeks to develop and enhance the role of town centres. The Pilot Study was for a period of 1 year from 16th July 2018. After the initial 1 year period it was agreed at P&BS Committee the Pilot Study would remain in place until the adoption of LDP2. This is a material consideration for this application which now needs to be tested against Policy ED3 and account for the recommendations of the Town Centre Core Activity Area Pilot Study.

Policy PMD2 requires new development should be compatible with, and respect the character of the surrounding area and neighbouring uses.

Assessment

This development would retain the front shop area with the remainder of the accommodation handed over to the proposed residential use, removing the existing store room, staff room/kitchen and basement area.

The proposals detail that the development would provide two bedroom accommodation with kitchen/dinning room and living room for the use of employees at the applicants nail and beauty salon which will operate from the existing front 'shop' area. Access to the residential accommodation has to be provided through the shop. The applicants have advised that the small 'materials/equipment' required to operate the beauticians negate the need for a large store room as these goods can be stored within the shop area. The applicants also confirm that it is not their intention to separate the residential accommodation from the beauty salon.

Policy ED3 does not resist certain uses in the manner that ED4 did. The test is whether the development maintains or enhances the vitality and viability of the town centre.

Despite Policy ED4 being suspended, the character of Hawick High Street at ground floor level has remained commercial. The applicant is not proposing the full loss of the retail space but the whole of the space which supports the 'shop floor' would be lost. This business may be able to operate with no supporting accommodation but it would certainly be challenging for any future users to be able to operate

the retail space with no designated store room and staffing facilities. As these spaces play an important role in aiding the efficient operation of a business.

This development would hand more of the ground floor accommodation over to the proposed residential use than the retail space. The commercial activity would remain visible from the High Street however the residential accommodation relies on access through the shop. This creates an uncomfortable relationship where a residential use begins to creep into commercial space where they would have been previously separated by commercial activity taking place across the ground floor area with residential accommodation contained above. Policy ED3 does acknowledge that a residential use can enhance the role of town centres, however para 1.4 of the supporting text makes reference to the supporting role residential accommodation normally plays in town centres are in flats above the ground floor level. Additionally it is material to note that Pilot Study may have allowed other uses to be consented with Core Activity Area to help arrest growing vacancy rates but on promoting the change it was recommended on page 11 that; "there is a caveat that prevents change of uses to ground floor residencies within the currently defined core activity area. Such uses are acceptable within edge of core activity areas and upper floors, but whilst they would be a simple more profitable option for owners within core activity areas, they would remove permanently opportunities for commercial activities"

The Pilot Study may have widened the net for potential uses within the Core Activity Area of Hawick but in doing so it expresses caution when considering proposed residential uses in locations such as this proposal on the ground floor of a premises positioned centrally within the Core Activity Area. This development would lead to commercial and residential use being amalgamated at ground floor level, especially as access to the residential accommodation is reliant to access through the shop. The introduction of residential accommodation at ground floor level would change the character of this particular planning unit and could potentially lead to the intrusion of further residential uses elsewhere along the High Street. This change could significantly impact the character of the High Street by reducing its footfall and the role of the High Street as the commercial heart of the town.

If the nail and beauty business were to move on, the arrangement of the planning unit may also not be attractive to commercial business operators seeking a base within a High Street premises. The extent to which such a proposed arrangement might be 'handed on' readily to successors, is highly questionable. The more flexible the space available within the retail unit, the more likely it is, to be recycled from one retail business user to another; avoiding any long-term vacancies. Although the applicants are not intending to separate the retail space from the residential use, this may be difficult to resist. Should the uses be separated, it would be very challenging for future business to regain the use of the space handed over to a residential use. A small shop with no supporting accommodation may not be attractive to other users and again would be in danger of a long term vacancy on the High Street.

The applicant has suggested that there is an operational need for having employees 'on site'. Historically business operations did reside in residential accommodation above their premises but there does not appear to be any compelling case for an employee at a nail and beauty bar to reside at their place of work to ensure the efficient operation of the business. The business should be able to be operated successfully like most others where employees do not live on site.

In summary, I consider that the formation of a self-contained flat within existing ground floor commercial space, especially where access to the accommodation is required to be taken through the retail space would detrimentally impact on the character of the town centre. The formation of the residential accommodation would result in the loss of around half of the existing unit's commercial space. This raises concerns with respect to the viability of the commercial space, especially in the longer term where the reduced commercial unit could become unviable and unattractive to potential successor businesses. This in turn, is likely to result in the unit becoming a long-term vacancy, whose presence would be liable to have an unacceptably adverse impact upon the character, vitality and viability of this part of the town centre as a venue for retailing. These impacts are considered to be contrary to Policies ED3 and PMD2, and no material considerations have been presented which would justify any departure from this assessment.

Other Matters

All external alterations proposed within this application take place to the rear. These works do not appear to impact on the character and appearance of the Conservation Area. If the development were to be approved

planning condition could be used to agree precise details, including materials of the new door, windows, roof lights and platform stairway.

The formation of residential accommodation does not conflict with Policy HD3 by causing any detrimental impacts on the residential amenity of any surrounding residential properties. The development does not appear to conflict with any other surrounding uses.

Policy PMD2 requires, that all new development should provide for appropriate internal and external provision for waste storage, and separate provision for waste and recycling. No provision has been provided for waste storage. There is space at the rear of the shop for waste/recycling bins and a condition could agree the details of the necessary bin stances. It would appear that bins would have to be presented at the High Street which would mean taking waste through the commercial space. This is not an ideal arrangement but it would ultimately be a matter for the management of the commercial space to address. It does, however, contribute to concerns above regarding the sustainability of the proposed mix of uses.

I have considered the application against all other provision of the development plan and found no other areas of conflict.

Enforcement Matters

The last known use of 43 High Street was a shop which falls under Class 1 (Shops) of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended. A nail and beauty salon falls under Class 2 (Financial, Professional and Other Services). Planning permission is required for a change from Class 1 to a Class 2 use. Google Street view imagery from April 2021 shows that the premises has been converted from a Shop to a Beauticians. There is no history for any planning consent being in place for this change therefore these works have been undertaken without the planning permission. This change falls out with the scope of this application and will be pursued by the Council's Enforcement Team.

Street view imagery also identifies that external redecoration works have been carried out. The property is within the Conservation Area therefore these changes require planning permission. Consent has not been obtained for these works which also fall out with the scope of this application and will also be pursued by the Council's Enforcement Team.

REASON FOR DECISION :

The proposal is contrary to Policies ED3 and PMD2 in that it would have an unacceptable impact on the town centre, specifically in undermining the viability of an existing retail/commercial unit thereby detracting unacceptably from the vitality and viability of this area of the town centre, and would be unacceptably detrimental to the character of the surrounding area.

Recommendation: Refused

- 1 The proposal is contrary to Policies ED3 and PMD2 in that it would have an unacceptable impact on the town centre, specifically in undermining the viability of an existing retail/commercial unit thereby detracting unacceptably from the vitality and viability of this area of the town centre, and would be unacceptably detrimental to the character of the surrounding area.

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