

**Application for Planning Permission for change of use from Class 4 (office)
to Class 2 (Veterinary Practice)**

2 ROWAN COURT, CAVALRY PARK, PEEBLES

on behalf of

Two Rivers Veterinary Practice Ltd

6th March, 2023

SUPPLEMENTARY STATEMENT

1.0 INTRODUCTION

- 1.1 This Supplementary Statement responds to a post-submission communication received from the Planning Officer on 28/02/23 in his early assessment of the application which states:

“The outline planning permission for the business park included a condition which restricted the use to Class 4 and Class 6 for the purpose of ensuring the uses of the units remaining compatible within the site.

Cavalry Park is designated as a Strategic High Amenity site, and as such Policy ED1 dictates that Class 4 is the predominant use. It is acknowledged within ED1 that other complementary commercial activities may be acceptable, if it enhances the quality of the business park as an employment location.

It is considered that Class 2 uses are generally not complementary to Class 4 uses.

Class 2 uses are usually more appropriately accommodated in town centres, in areas out with Prime Retail Frontages, where the surrounding infrastructure is more conducive to the accommodation of visiting members of the public.

Class 2 uses can themselves contribute to the diversity and vitality of town centres as attractive shopping and service areas. A town centre appears to be the more natural location and context for a veterinary practice rather than operation from a peripherally located business park. For that reason Policy ED3 is also relevant which aims to prevent suitable town centre uses being located in out of centre locations.

On the evidence you have provided, the proposal currently fails to comply with Policy ED1 and ED3.

In order for your proposal to be acceptable you need to demonstrate that you have assessed the availability of suitable town centre or edge of centre sites and provide at least 6 months marketing evidence which demonstrates that 2 Rowan Court has been unsuccessfully advertised as a Class 4 use. Without this supporting information I am not able to justify a departure from development plan and grant an approval.”

2.0 RESPONSE

The response is provided in three sections:

Section A: Response to the assertion that the proposed use is not complementary to other uses in Cavalry Park, including comment on the provisions of NPF4.

Section B: Response to the assertion that a town centre location is more appropriate.

Section C: Response to the demand for information on marketing of 2 Rowan Court for class 4 use and on the requirement to assess premises in the town centre.

SECTION A

2.1 The first 3 paragraphs of the Officer's response are addressed below.

"The outline planning permission for the business park included a condition which restricted the use to Class 4 and Class 6 for the purpose of ensuring the uses of the units remaining compatible within the site.

Cavalry Park is designated as a Strategic High Amenity site, and as such Policy ED1 dictates that Class 4 is the predominant use. It is acknowledged within ED1 that other complementary commercial activities may be acceptable, if it enhances the quality of the business park as an employment location.

It is considered that Class 2 uses are generally not complementary to Class 4 uses."

2.2 The Officer has not stated why he considers the proposed Class 2 use (or class 2 uses generally) not to be complementary to Class 4 uses. The statement *"It is considered that Class 2 uses are generally not complementary to Class 4 uses"* is made without justification and it is not something which policy actually ED1 says. Rather, as the Officer acknowledges, the policy says that *"other complementary commercial activities may be acceptable, if it enhances the quality of the business park as an employment location.* The submitted Planning Statement has set out how we consider the proposal to be complementary to the wider use of Cavalry Park.

2.3 The Local Review Body has, in recent years, considered several non-Class 4 uses to be complementary to the wider use of Cavalry Park, with Members being unable to agree with Officers'/ Economic Development's view that class 2 uses are generally not complementary to class 4 uses.

- 2.4 Non-conforming uses approved at LRB in recent years in Cavalry Park, as set out in the Planning Statement include:
- chiropractor (class 2),
 - dental surgery (class 2),
 - day centre for members of the public (class 10),
 - training centre (class 10) and
 - gymnasium (class 11).

National Planning Framework 4

- 2.5 Scotland's National Planning Framework (NPF4) was adopted on 13th February 2023. All planning applications must now be determined in accordance with the provisions of NPF4 and the relevant LDP, unless material considerations indicate otherwise.
- 2.6 Where there is an inconsistency between NPF4 policies and an LDP which was adopted before 13 February 2023, it must be noted that the NPF prevails in accordance with the 1997 Act, section 24(3), as amended which states, *"In the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail."*
- 2.7 In NPF4's National Spatial Strategy, a key Priority in the "South Area", where Peebles lies, is to "support local economic development". This proposal facilitates local economic development.
- 2.8 In NPF4, the way the term "Business" is used means that it is reasonable to include the proposed business and employment use of the veterinary practice as being a business use. Accordingly, policies 26 and 27 of NPF4 must be taken into account.
- 2.9 **Policy 26:** 'Business and Industry' includes the intent to "encourage, promote and facilitate business uses..." The policy includes the statement *"Development proposals for business and industry uses will be supported where they are compatible with the primary business function of the area. **Other employment uses will be supported where they will not prejudice the primary function of the area and are compatible with the business/industrial character of the area."***
- 2.10 The proposed veterinary practice is a business use and an employment use. The Planning Statement, in demonstrating compliance with ED1 and ED3 has shown that the proposed use is compatible with, and complementary to, other business uses within Cavalry Park and that it will enhance the quality of the Park as an employment location. The proposed use is compatible with the character of the

area. Further, the proposal offers significant community benefits through the provision of much needed animal health services for small animal owners, equine needs and farm services in the Peeblesshire area.

- 2.11 In addition, other material considerations must be taken into account including the significant planning and appeal history in Cavalry Park. There are several other class 2 uses permitted which have been considered by the LRB to comprise “other complementary commercial activity” and to “enhance the quality of the Strategic High Amenity Business Park as an employment location.”
- 2.12 **Policy 27 City, Town, Local and Commercial Centres** provides that proposals for uses which will “*generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces will be supported in existing town centres*”.
- 2.13 The Council’s own approved Guidance on Core Activity Areas in Town Centres contains the settled view that veterinary surgeries exhibit the following features “*inactive frontage generally, footfall can be relatively low and the potential for linked trips is low*”. (Please refer to section 2.18 – 2.20 below).
- 2.14 NPF4 suggests, therefore, that a Veterinary Practice is not a use which would be supported in a town centre, as such does not generate significant footfall. This is contrary to the Officer’s view that the Veterinary Practice should seek a town centre location.

SECTION B

- 2.15 This section addresses the Officer’s next 2 paragraphs.

Class 2 uses are usually more appropriately accommodated in town centres, in areas out with Prime Retail Frontages, where the surrounding infrastructure is more conducive to the accommodation of visiting members of the public.

Class 2 uses can themselves contribute to the diversity and vitality of town centres as attractive shopping and service areas. A town centre appears to be the more natural location and context for a veterinary practice rather than operation from a peripherally located business park. For that reason Policy ED3 is also relevant which aims to prevent suitable town centre uses being located in out of centre locations.

- 2.16 The current practice does operate from a town centre location and this is wholly inadequate on account of the following:

- There is a lack of parking near the surgery for Clients bringing sick/ injured animals for treatment or euthanasia which is distressing and impractical for both animals and Clients.
 - Like many town centre properties there is a lack of space for the practice to operate which is materially limiting business growth. The material operational issues arising from lack of internal space have already been detailed in the Planning Statement.
 - Animals are currently walked outside in public areas to toilet by staff, as there is no outside space belonging to the practice. Little space is needed, but there is none in the town centre that can be used. 2 Rowan Court includes an area of grass.
 - There is no external space for bins (recycling, general waste or offensive waste). This currently has to be transported back to the Biggar Practice every evening.
 - The lack of parking means that vets have to move heavy equipment, such as the xray machine, between parking areas and the practice.
 - Farmers and horse owners will sometimes bring an animal in a livestock trailer to be vaccinated. Parking close to the practice is needed.
- 2.17 We are unaware of the nature of the “surrounding infrastructure” to which the Officer refers which he suggests makes a town centre location for a veterinary practice more conducive to the accommodation of visiting members of the public. A town centre location is generally unsuitable for members of the public with sick animals needing to visit a practice of this size.
- 2.18 It is acknowledged that some Class 2 uses *can* contribute to the vitality of town centres, however the Council is clearly of the view that veterinary practices have a limited role in this regard. The approved Planning Guidance “**Town Centre Core Activity Area Pilot Scheme**”, whilst focussed on Hawick and Galashiels, states that it lays down useful guidance relevant to proposals within other core activity areas within town centres within the Scottish Borders.
- 2.19 This Guidance specifically includes a note on veterinary surgeries in terms of their acceptability in core activity areas of town centres. It states that in order for veterinary surgeries to be acceptable, a case will require to be made by the applicant. The reasons given for this are that veterinary surgeries are considered to

have “*inactive frontage generally, footfall can be relatively low and the potential for linked trips is low*”.

- 2.20 If a veterinary surgery exhibits these features in a Core Activity Area, then logically a veterinary surgery also exhibits these same features in the wider town centre – the location being promoted by the Officer. This settled view of veterinary practices appears slightly at odds with the Officer’s position that, as a class 2 use, the proposal can be more appropriately situated in the town centre.
- 2.21 It is clear that the town centre is not a suitable location for the Two Rivers Veterinary Practice on account of the needs of the business and the characteristics of the business.

SECTION C

- 2.22 This section addresses the Officer’s final comments:

In order for your proposal to be acceptable you need to demonstrate that you have the assessed the availability of suitable town centre or edge of centre sites and provide at least 6 months marketing evidence which demonstrates that 2 Rowan Court has been unsuccessfully advertised as a Class 4 use. Without this supporting information I am not able to justify a departure from development plan and grant an approval.”

- 2.23 This requirement to demonstrate 6 months marketing, for class 4 use, of 2 Rowan Court is unreasonable. According to the approved Guidance, this requirement is unique to proposals for non-conforming uses in Core Activity Areas only. This requirement is set out in the above-noted Guidance on Core Activity Areas. The current proposal is NOT for a non-conforming use in a Core Activity Area so this requirement appears to be unreasonable.
- 2.24 We are not aware of any policy or guidance that requires such to be demonstrated where a non-conforming* use is proposed within a Strategic High Amenity Site such as Cavalry Park. [*non-conforming means uses other than class 4 (office), or class 6 (storage and distribution), where the latter is acceptable].
- 2.25 Policies **ED1** (Protection of Business & Industrial Land) and **ED3** (Land Use Allocations) are notably silent on any requirement to demonstrate marketing. Rather, the application should be assessed in terms of the wording of policies ED1 and ED3 and other material considerations. The Planning Statement concludes that the proposed use is complementary to other uses in the Park, particularly taking into account the several notable LRB decisions (approvals) relating to other accepted non-conforming uses.

- 2.26 The author is not aware of other instances where applicants who have submitted applications for non-conforming uses in Cavalry Park have needed to provide evidence of 6 months marketing. The request is considered to be unreasonable in that it is not a policy requirement within the LDP or within adopted Guidance and is not consistent with the treatment of applications for non-conforming uses in Cavalry Park to date. The unit has not been marketed for 6 months for class 4 uses. Two Rivers Vets have an urgent need for new premises and a deal has been reached between the seller and the applicant.
- 2.27 In terms of the assessment of available properties in the town centre, it must be appreciated that it is difficult for the applicant to prove a negative, particularly given the way that properties are now marketed (on-line). There simply are no suitable premises for lease or for sale in the town centre of Peebles. The Applicant is well connected locally and has been searching thoroughly for an extended period of time. An online search of commercial and local agents' websites will confirm the lack of available suitable premises. Online marketing is used by the vast majority of agents and were premises available these would be apparent.
- 2.28 The Two Rivers Veterinary Practice has been seeking alternative premises for well over 5 years. Discussions and design progressed to an advanced stage over an extended period with regard to a site in South Parks, but the deal was unable to conclude due to the seller deciding that they would not, after all, wish to sell. This came as a serious setback for the Practice which suffered financial loss from the work put in by architects and solicitors. A potential site on Edinburgh Road was more recently reviewed, but this was bought by a third party.
- 2.29 The Practice has no other location from which it can operate in Peebles. There are no other premises in Peebles of suitable size which have ground floor access, necessary window ventilation and parking. There are no opportunities to buy land and build a suitable property. With a client base in excess of 5,000, it is imperative that the proposed new home for the surgery comes to fruition, in order for the Practice to continue to operate safely and effectively, to continue to offer excellent service to the animal-owning population of Peebles and the surrounding areas, and to enable business growth, and consequent employment opportunities, as well as further training positions for young people.
- 2.30 The Planning Statement and this response to the Officer's comments demonstrates that this proposal is compliant with the provisions and intentions of Local Development Plan policy and other material considerations including extensive Local Review Body decisions with regard to non-class 4 use in Cavalry Park.