

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/00872/FUL

APPLICANT : Mr Paul Lawrie

AGENT :

DEVELOPMENT : Erection of dog day care building, perimeter fence and associated works
(retrospective)

LOCATION: Land South West Of Milkieston Toll House
Eddleston
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1:1250 LOCATION 1:500 SITE	1 of 2 Location Plan	Refused
1:50 ELEVATION	2 of 2 Elevations	Refused

NUMBER OF REPRESENTATIONS: 7

SUMMARY OF REPRESENTATIONS:

Adverts were placed for neighbour not known and bad neighbour in the Peeblesshire News and on PINS website.

One neighbour was notified and 6 objections were received from 5 households. Objections concern:

Inadequate screening
Poor design
Concerns about safe disposal of Waste
Inadequate Boundary/Fencing
Road safety
Dog Noise
Impact on near by business - sheep farming lets (lambing)
Overlooking
Detrimental to residential amenity
Detrimental to environment
Flood risk.

Consultation responses were received as follows:

Flood risk officer: Development lies out with the functional flood plain: no objections on the grounds of flood risk.

Environmental health officer: Noise nuisance and odour identified. Condition required to ensure delivery of an operating plan and mitigation measures to protect amenity of neighbours. A licence shall be obtained prior to commencement.

Archaeology officer: No implications

Roads Planning Officer: Recommend refusal. This is a commercial business and there is a presumption against new minor accesses onto principal roads out with recognised settlements. It is unsuitable for daily use owing to it being an unmade surface with gradient and visibility issues.

Notes:

Principle

Presumption against new minor accesses onto principal roads out with recognised settlement boundaries on 60mph stretches of road. The Design Manual for Roads and Bridges (DMRB) also states in TD41/95 that direct accesses should be strictly limited. While the DMRB specifically relates to trunk routes, the standards within it are consistently applied to principal roads within the Scottish Borders. This is consistent with 278. of SPP While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered where the planning authority considers that significant economic growth or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with DMRB and where there would be no adverse impact on road safety or operational performance.

Design

Unsuitable due to vertical and horizontal alignment (Visibility from the access is measured at a point 2.4 metres back from the edge of the carriageway, as this reflects the point of view from a driver when waiting to exit the site without the vehicle overhanging the carriageway. From this 2.4 metre setback, the view onto the public road is restricted in both directions.) Visibility afforded is poor for vehicles exiting the site and also visibility on approach to the junction, particularly if there is any stacking traffic (Forward visibility on approach to the access when travelling south is restricted in terms of Stopping Sight Distances appropriate to the speed of traffic on this part of the road.).

Eddleston & District Community Council: No response

Supporting information

The applicant supports the application with a statement:

1. The applicant consulted the Council on the requirement for Planning permission in 2015. They advise that the site had a unit and permission would not be needed.
2. Boundary fencing is designed for durability and appearance and has been in place for 1.5yrs.
3. There are no environmental issues if the dogs keep within the perimeter. This ensures no surrounding livestock issues. Dog faeces is being composted to a recognised standard.
4. 70 clients depend on this business.
5. No incidents or accidents recorded due to this vehicular access.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2 Quality standards

HD3 Protection of residential amenity

ED7 Business tourism and leisure development in the countryside

EP8 Archaeology

IS7 Parking provision and standards

IS8 Flooding

Recommendation by - Euan Calvert (Assistant Planning Officer) on 7th February 2017

Retrospective full planning permission is sought for erection of a building, perimeter fencing and associated works in relation to operating a dog care business.

Site and Location

The application site is a long, narrow piece of agricultural grazing land, 3km north of Peebles, located on the west side of the A703 (Peebles to Edinburgh road). The land is just north of the elevated bridge access serving Cringletie House Hotel. The land is a narrow strip between the public road and the Eddleston Water beyond. The railway embankment of the former Peebles Branch line (closed in 1962 and now dismantled) is now indistinguishable in the land owing to the recently approved river works. Re-meandering was undertaken by Tweed Forum as part of a scheme (13/01213/FUL) which results in the course of the river now being westwards of the previous route. The Waters previous course was arrow straight, closely following the westward foot of the railway embankment. These works were aimed at flood prevention and habitat creation and have resulted in removal of the embankment on which the railway ran.

The applicant has outlined the site boundary as 100m in length (north to south) x 25m in width at the northern boundary and 30m in width at the southern boundary.

OS maps and aerial images show the site area which is enclosed by stockproof fence and being used for the purposes permission sought as 290m in length x 40m in width at north and 70m in width at the southern boundary. This new westward extent is defined by stock fencing and encloses the former railway embankment. The southern boundary is also a stockproof fence, located 55m north of the vehicular access to the site. Two field gates provide access to the site through this southern boundary. One is in the south east corner and provides access from a track which closely follows the river bank and a second, 20m in from the south eastern corner, providing access from a newly surfaced track.

These details are important to understanding the material consideration of this application. The required vehicular access to site is not within this site boundary as submitted and outlined in red.

Planning history

08/01460/FUL Erection of 10 Holiday Chalets, Formation of New Access Road, Associated Services and Landscaping, Refused, Appeal Dismissed, 06 Aug 2009.

Grounds for refusal and appeal dismissal were threefold:

1. Flooding risk
2. Landscape impact
3. Road safety and free flow of traffic.

07/02230/AGN

There is no evidence of this agricultural shed having ever been constructed in the far south east corner of the field related to the site.

Planning policy

Quality Standards

Layout and design are material considerations. The Placemaking and Design SPG requires the building to be compatible with the character of the surrounding area and built form.

The proposal must have an understanding of sense of place, context and be designed in sympathy with local architectural styles. It should be finished in materials, colour and textures which contribute to the highest quality of architecture in the locality.

HD3: Protection of Residential Amenity

The Council will protect against adverse impacts on amenity and character. Particular attention is paid to overlooking, overshadowing, loss of privacy and loss of sunlight.

ED7 Business tourism and leisure development in the countryside

Business, tourism and leisure development in the countryside will be approved and diversification encouraged within the parameters set by 9 criteria and policy standards. Any proposal would need to justify and demonstrate significant economic and/or operational need; and demonstrate that it cannot be reasonably accommodated within the development boundary of a settlement. A business case should be submitted in support of any proposal.

IS7 Parking provision and standards

The Roads Planning Officer has been consulted to advise on the safety and sufficiency of the proposal.

IS8 Flooding

The Flood Protection Officer offers consultation to guard against building in flood risk areas and to protect against increase probability of flooding elsewhere.

DEVELOPMENT

Plastic perimeter fencing (~1800mm high) has been erected on stobs to provide a dog proof enclosure to a grass field which is significantly water logged and colonised by Rush.

A field gate provides access to the field (setback from the road verge) in the south east corner of the field. A timber advertising sign is erected and a small hardstanding has been created leading from the roadside. This entrance is only 70 metres north from the Cringletie Hotel road junction, which leads to the bridge crossing, south of this site.

A stone track has been laid leading north from the roadside gate to a further gate which is the fenced enclosure mentioned above.

A building has been erected in the north eastern corner of the site, 12m x 6m x 2.8 to pitch under a shallow mono pitched roof. It is sited 7m back from the boundary with the roadside verge, and lower in the slope. The building frontage appears west (turned slightly north from due west) with one pair of barn doors opening from the centre of this 12m elevation. Three Perspex windows have been created in the walls, all with horizontal rectangular appearance (none in the roadside elevation). The walls of the building have been finished in Orientated Strand Board finished in dark green and a rudimental roof of corrugated plastic or steel sheeting aims to keep the building water tight. There is no roof overhang.

ASSESSMENT

PRINCIPLE

Policy ED7 is quite clear that a business case must accompany and support any proposed use. Given this application is in retrospect I find the absence of material importance. The applicant presumably wishes to demonstrate that the business would satisfy Part C which clear requires "an economic or operational need for the particular countryside location, and that it cannot reasonably accommodated within the development boundary of a settlement." They have failed to demonstrate this need and use at this particular rural location. I would usually, at this point, proceed to discuss and apportion weight to the competing advantages and disadvantages of the chosen site. Supporting information is sparse with this application and there has been no sequential approach (supporting the application) which would demonstrate arriving at this site selection therefore it is impossible to undertake this process with any confidence.

The applicant notes that they have several local customers (70) and that there is an economic and operational need for "The Fast and The Furriest Dog Daycare Centre" in this rural location. No business case is provided to support this assertion.

LANDSCAPE CHARACTER

Siting, use and scale

The scale and design of the building resembles proportions of a horse stable. However, the building is finished in materials which are not in accordance with Quality standards, Design and Placemaking, PMD2. Quality standards demand that buildings must be finished in materials that complement the highest quality of architecture in the locality and respect the surrounding area. In this respect, OSB boarded walls and plastic mesh fencing do not make appropriate contributions to the agricultural vernacular in the locale. The appearance is industrial in a predominantly rural and isolated location which is more suited to agricultural design. This development is at odds with PMD2 and ED7 in that proposals does not respect local character. This River Valley Landscape character type is sensitive to change and the A703, a significant tourism receptor, immediately overlooks the site. These compound and result in adverse impact to amenity and character. The use of plastic boundary fencing is not in keeping with the character of the surrounding countryside setting (or agricultural scene) and, owing to the valley bottom location and absence of natural vegetation, clear views are had across the site.

AMENITY

The EHO has identified conditions which would be essential to protect against noise and odour nuisance. An operating plan and mitigation measures are requested if approval was recommended. They further advise that the business would have to be Licenced with the Council.

I find no compelling overlooking, loss of privacy or neighbouring residential amenity issues. I acknowledge concerns of objectors regarding appropriate disposal of dog waste; the building appearing an "eyesore"; and nuisance noise from dog barking. The nearest neighbour, Milkieston Tollhouse is an objector however I find that this development is sufficiently disparate (and on the opposite side of the A703) that the impact to neighbouring amenity could not be termed anything more than minor. The nature of use (day-care only) provides comfort that noise would not be prolonged or continuous.

VEHICULAR ACCESS AND ROAD SAFETY

There are serious underlying conflicts with the compatibility of this site to accommodate a business aligned with ED7.

Firstly, the proposed vehicular access is not within the site boundary (identified in red) and secondly, the Road Planning Officer identifies this as a commercial business in a rural site which would not comply with IS7. The issues are threefold:

1. There is presumption against new minor accesses (for commercial businesses) onto principal roads out with recognised settlements in local and national policy.
2. The existing access is unsuitable for daily use owing to its design. It is an unmade surface with significant gradient and visibility issues. (Visibility from the access is measured at a point 2.4 metres back from the edge of the carriageway, as this reflects the point of view from a driver when waiting to exit the site without the vehicle overhanging the carriageway. From this 2.4 metre setback, the view onto the public road is restricted in both directions.)
3. Visibility on approach to the junction is marginal, particularly if there is any stacking traffic (Forward visibility on approach to the access when travelling south is restricted in terms of Stopping Sight Distances appropriate to the speed of traffic on this part of the road.).

I am in agreement with the Roads Planning Officer that development of a commercial vehicular access at the chosen location is wholly inappropriate and in conflict with IS7. Increased and formalised vehicular movement from this field access would significantly adversely affect the safety of traffic on the A703 and is in conflict with national Policy which specifically guards against new minor vehicular accesses.

As an aside, design of the existing access is insufficient due to vertical and horizontal alignment and restricted stopping sight distances.

IS7 seeks development of vehicular accesses to be aligned with approved standards to avoid compromising road safety. Concerns have been aired by objectors regarding road safety and the Roads Planning Officer confirms these issues. No further junction proposals have been offered from the applicant. Instead the applicant has used a comparable example (The neighbouring junction for the Crinletie Hotel located 70m south) as justification for this submission not adhering to IS7 approved standards.

FLOODING

Development is out with the functional flood plain therefore no objections on the grounds of flood risk and IS8 is satisfied.

GREEN NETWORKS EP12

The former Eddleston railway line is identified as an opportunity for improved non-motorised connectivity between settlements. Discussions with my colleague, the Public Access Manager, reveal that this section between Peebles and Eddleston is nearing the point of a Planning Application being made by Sustrans to establish the route as a cycle link. It is not clear whether the re-routing of the Eddleston water and enclosure of the western boundary of this site (to include the route of the former railway line) would prejudice this project. I have concern that this boundary treatment does not take into account coherence of this proposed network, EP12. Despite my concerns about conflict between public access and this dog care business I do not find it to be a material consideration in this instance. Any future proposal for public access could be managed with appropriate fencing to align development with EP12, by securing public access on this strategic route.

OTHER MATTERS OF OBJECTION

An objection concerns the impact on nearby businesses, specifically sheep farming lets (lambing) and potential that this development is in conflict. I acknowledge this risk and identify that it could be MITIGATED and secured by design with appropriate fencing. However, in the current form, I have sufficient concern that a dog day care business (Cir. 70 clients) could have a significant adverse impact on nearby uses something which Policy ED7 seeks to guard against.

ARCHAEOLOGY

No implications.

REASON FOR DECISION :

The development does not satisfy Policy PMD2, ED7 or IS7 of the Local Development Plan 2016 in that no business case has been provided to justify the economic and operational need for the particular countryside location. The vehicular access is unsupported in principle for daily commercial use and presently compromises road safety on the A703. The fence and building do not satisfy quality standards in that development is having an adverse impact on the amenity and character of the surrounding area.

Recommendation: Refused

- 1 The development is contrary to PMD2 in that the fence and building do not satisfy quality standards in that development is having an adverse impact on the amenity and character of the surrounding landscape.
- 2 The development is contrary to ED7 in that no business case has been provided to justify the economic and operational need for the particular countryside location and this development is unsuitable for the locality.
- 3 The development is contrary to IS7 in that intensified traffic usage at the sub-standard vehicular access creates a detrimental impact on road safety on the A703 and is contrary to policy on minimising accesses on to A-class roads.

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