

APPENDIX III

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)
ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW
PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 19/00004/RREF

Planning Application Reference: 18/00723/FUL

Development Proposal: Change of use to joiner's workshop and showroom, caravan repairs and sales, car valet, retail and siting of catering unit

Location: Bruce Motors, Redburn Garage, Peebles Road, Galashiels

Applicant: D Howard

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice subject to the conditions and informatives as set out below.

DEVELOPMENT PROPOSAL

The application relates to change of use to joiner's workshop and showroom, caravan repairs and sales, car valet, retail and siting of catering unit. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Block Plan	1
Block Plan	2
Designation of Units	

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 18 March 2019.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; and f) List of Policies, the Review Body proceeded to consider the Review. They noted the applicant's suggestion for further written submissions, a hearing and site visit but did not consider these necessary after viewing photographs and plans of the site and surroundings.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD4, PMD5, ED2, ED3, ED7, HD3, EP6, EP16, IS7, IS9 and IS13 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2011
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Countryside Around Towns 2011
- Snack Bar Operations Guidance Booklet

The Review Body noted that the proposal was for planning permission for change of use to joiner's workshop and showroom, caravan repairs and sales, car valet, retail and siting of catering unit. Members noted that all works had been carried out and that the application was retrospective.

Members attached weight to the previous car sales and repair use of the site and felt that the business use of the site had been established. They noted that there were five different uses occupying the site and were of the opinion that the uses were dependent upon, and mutually beneficial to, each other. The Review Body felt that refusing one or two of the uses could affect the viability of the overall mix and balance of uses on the site.

They noted that the uses were in a prominent roadside location whereby passing trade was attracted and that the mix of businesses were not inappropriate in this location, within the settlement boundary of Galashiels. They ultimately considered that there was little significant difference between the previous business use of the site and the current business uses and that it would have been challenging to have found a more suitable location for the mix of uses within existing industrial areas. They also felt that the retailing element was providing sales of bulkier items which were more suitable to be displayed and sold from such premises than in town centres or High Street locations.

The Review Body did express concerns over the visual impact of the disparate uses under Policy PMD2 and, in particular, the retailing and car wash uses, given the position of the site upon the entrance into Galashiels. They noted the impacts of the various sales items and the apparent diverse range of containers and structures required for the car wash element of the business. Whilst they accepted that screening of such uses was not realistic and, indeed, would be counter-productive to the operation of the uses, they still considered that some rationalisation and consolidation of structures and areas for sales items would need to be controlled using appropriate conditions, both to minimise visual impact but also to ensure clarity of forecourt and parking use.

The Review Body considered other issues raised by consultees but concluded that suitable planning conditions could control these matters, including road signage. Given the current operation of the uses and the retrospective nature of the application, Members agreed that a six month time period be generally included for satisfactory conclusion of all conditions requiring agreement of further details, in order to secure the necessary requirements.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved.

CONDITIONS

1. Unless otherwise agreed in writing by the Planning Authority, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. All uses shall then operate in accordance with the mitigation identified in the scheme, following approval of the scheme in writing by the Planning Authority and implementation of the mitigation measures, no later than six months from the date of the consent.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

a) desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Planning Authority prior to addressing parts b, c, d, and, e of this condition.

and thereafter

b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.

c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its use (this shall include a method statement, programme of works, and proposed validation plan).

d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to the satisfaction of the Planning Authority.

e) Submission, if necessary, of monitoring statements at periods to be agreed with the Planning Authority for such time period as is considered appropriate by the Authority.

Written confirmation from the Planning Authority, that the scheme has been implemented, completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer within six months of the date of this consent. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and ecological systems arising from any identified land contamination have been adequately addressed.

2. Full details of all water and drainage provision, including demonstration of compliance with relevant SEPA Guidance on car wash drainage, to be submitted to, and approved in writing by, the Planning Authority and then implemented in accordance with the approved details, all within six months of the date of this consent.

Reason: To ensure that the site is adequately serviced and to protect the water environment.

3. A directional sign for visitors entering the premises at the easternmost access to be submitted to, and approved in writing by, the Planning Authority, and then erected in accordance with the approved details, all within six months of the date of this consent. The sign then to be retained in perpetuity.
Reason: To ensure that vehicles associated with the development hereby approved do not interfere with the free flow of traffic on the adjacent A72.
4. A plan detailing the area set aside for car parking in association with the catering unit, retail sales and car wash uses to be submitted to, and approved in writing by, the Planning Authority and the area then made available for car parking, all within six months of the date of this consent. The car parking area then to be maintained obstruction-free and available for car parking in perpetuity.
Reason: To ensure that vehicles associated with the development hereby approved can be adequately accommodated on site and do not interfere with the free flow of traffic on the adjacent A72.
5. A plan detailing the containers/structures and area set aside for retail sales to be submitted to, and approved in writing by, the Planning Authority, all within six months of the date of this consent. All sales items then restricted to the approved containers/structures and area in perpetuity following approval.
Reason: To safeguard the visual amenity of the area.
6. A plan detailing waste storage provision for all uses to be submitted to, and approved in writing by, the Planning Authority, and then implemented in accordance with the approved details, all within six months of the date of this consent.
Reason: To safeguard the visual amenity of the area.
7. A plan detailing all structures and storage containers for all uses, including how such structures and storage containers will be rationalised or reduced in numbers, to be submitted to, and approved in writing by, the Planning Authority, all within six months of the date of this consent. All structures and storage containers then to be sited in accordance with the approved details within six months of the date of the consent and retained thereafter for the duration of the consent.
Reason: To safeguard the visual amenity of the area.
8. Permission is hereby granted for a period of three years for all containers and storage structures on the site (including the catering unit) and, unless permission is sought and obtained for the retention of the containers and structures, all to be removed from the site upon expiry of the three year period.
Reason: To safeguard the visual amenity of the area.
9. A scheme for ventilation and odour control in respect of the catering unit shall be submitted to and approved in writing by the Planning Authority, and the use of the premises for catering purposes shall then operate fully in accordance with the provisions of the approved scheme, all within six months of the date of this consent. Thereafter, the ventilation and odour control equipment so required shall be maintained in accordance with the approved scheme throughout the duration of the consented use.
Reason: To ensure that the proposed ventilation/extraction system is of a specification that protects neighbouring amenity and is capable of being implemented and maintained during the period of the consented use.
10. The external colour of the catering unit to be changed in accordance with a colour agreed by the Planning Authority within six months of the date of this consent and then maintained in the agreed colour for the duration of the consent for the catering unit.
Reason: To safeguard the visual amenity of the area.

11. Full details of the hours and days of operation of the catering unit to be submitted to, and approved in writing by, the Planning Authority within six months of the date of this consent and then operated in accordance with the agreed details for the duration of the consent of the catering unit.
Reason: To safeguard the residential and visual amenity of the area.
12. Any noise emitted by plant and machinery used in connection with the development shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason: To protect the residential amenity of nearby occupiers.
13. A scheme of air quality preservation and dust emission control for the joiner's workshop to be submitted to, and approved in writing by, the Planning Authority within six months of the date of this consent and then operated in accordance with the agreed details for the duration of the use of the premises.
Reason: To safeguard the residential amenity of the area.
14. The joiner's workshop shown as Number 3 on the Designation of Units approved plan to be operated within Use Class 5 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 and any subsequent Amendment Order, any retailing element remaining ancillary to the main use at all times.
Reason: To ensure that the use is operated in accordance with the approval.

INFORMATIVES

1. Ventilation and Odour Control

In order to discharge Condition 9 the applicant will need to provide information as specified in DEFRA Guide: *Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*, January 2005 schedule B. If you have any questions in relation to this please contact an Environmental Health Officer.

Flue Height

The discharge stack shall discharge the extracted air not less than 1 metre above the roof ridge, or at chimney height, of any building within 20 metres of the building housing the commercial kitchen.

If 1 cannot be complied with (e.g. due to ownership or structural constraints), then the extracted air shall be discharged not less than 1 metre above the roof eaves or any skylight/dormer windows of the building housing the commercial kitchen. If this is the case, then additional odour control measures may be required.

If 1 or 2 cannot be complied with, then a high level of odour control will be required.

The stack should also be positioned as far as possible from the nearest residential accommodation, and a stack discharging into a semi-enclosed area, such as a courtyard or the area between back additions, should always try to be avoided.

2. Food Premises Registration

The premises will need to be registered with the Council before commencing operations. In order to ensure that the layout of the premises complies with the registration requirements

the applicant should contact an Environmental Health Officer as the earliest stage possible. This can be done by calling 0300 100 1800 or emailing PLACEhealth@scotborders.gov.uk

3. In relation to Condition 14, ancillary retail would be restricted to any retailing use directly linked to the existing joiner's workshop use and comprising of no more than 10% of the total floor area.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH

THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD

Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
 2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.
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Signed....Councillor T. Miers
Chairman of the Local Review Body

Date.....25 March 2019

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