

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 18/01161/FUL

APPLICANT : Mr Paul Lawrie

AGENT : Planning Solutions Edinburgh

DEVELOPMENT : Change of use of agricultural land to dog care walking facility and erection of boundary fence

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

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1 of 2	Location Plan	Refused
2 of 2	Proposed Site Plan	Refused

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

One representation in the form of an objection was received. The material grounds contained in that objection are: amenity; noise; flooding.

Consultation responses were received from: Economic Development - no comment; Roads - objection. The previous proposal was refused in part due to road safety concerns with the field gate being used as an access for a business. The access has poor visibility onto the A703 to the north due to the alignment of the fence and the gradient of the access. This decision was upheld by the Members during the appeal at Local Review. The current submission still has the same issues therefore I must re-iterate my recommendation for refusal of this current application. I have copied below my comments to the previous application for reference; "The access to this site from the A703 was previously a field access with very limited use. Over time, this access has been upgraded without permission. Whilst I note that this application is retrospective, I am not in favour of this access being used for a commercial business. There is a general presumption against new minor accesses onto principal roads outwith recognised settlements. Furthermore, the access is currently unmade with gradient and visibility issues, therefore unsuitable for daily use. Given these safety concerns and the general presumption against access onto classified roads outwith settlements, I must recommend refusal of this proposal."; Flood Risk Officer - Although the site is at flood risk, in principle this development is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems and I would not oppose it on flooding grounds. However, I would state that this is on the assumption that there are no buildings being built as part of this application. If there was to be a building then I would have to re-assess this application. Please note that this does not mean that I would object if there was a building but I would need to assess the potential flood risk and risk downstream. As access and egress to the development may also be affected by flood waters,

should approval be given, I would recommend that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. I would also recommend developing an evacuation plan during times of flood warning to ensure safety for both staff and animals during flood conditions.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD2 - Quality standards

ED7- Business, tourism and leisure development in the countryside

HD3 - Protection of residential amenity

EP1 - International nature conservation sites and protected species

IS8 - Flooding

The site is not strategic, therefore the policies contained within SESplan have not been considered.

Recommendation by - Ranald Dods (Planning Officer) on 2nd April 2019

Site and proposal

The site is an area of rough grazing roughly half way between Peebles and Eddleston. It lies between the Eddleston Water (to the west) and the A703 (to the east). The proposal is to change the use of the land from agricultural use to a dog care walking area.

Principle

Permission was refused previously for the erection of a dog day care building, perimeter fence and associated works, reference 16/00872/FUL. That application was made in retrospect and covered only the northern part of the current application site.

There are clear differences between this application and the previous retrospective one. Whilst permission is not required to walk or exercise dogs, the proposal represents an intensification of use as the business will operate from the same location on five days per week. This is quite different from a dog walking business which exercises dogs in various fields and land on an occasional basis.

The current application is made for the change of use from agricultural land to a dog care walking facility and the erection of a boundary fence. The application is supported by a business plan which states that the facility will be used for a limited number of hours (stated as three hours per day) during the working week, the majority of the time the land will not be used by the applicant for dog walking / exercise. The sort of operation proposed, where dogs are collected in two vans and driven to and from the site, then exercised under supervision within the field for three hours in a day, is not the sort of use which could reasonably be carried on within an urban area. In this instance, it is a use which is appropriate for a rural setting. No structures, other than the boundary fence, are proposed on the site. The character of the area will, therefore, not be negatively affected.

The proposal is generally compliant with policy ED7. Notwithstanding that, as set out below, the proposal fails to comply with policy PMD2 on road safety grounds.

Design and layout

The proposal will not have any built structures on it, other than the boundary fence. That fence is visually unobtrusive and is, therefore, acceptable.

Amenity

The site is located close to two houses but those are on the opposite side of the A703 road (which is likely to have more of an effect on amenity through road and traffic noise) and the field is large enough to ensure that any dog exercising activity is likely to be far enough removed so as not to be detrimental to amenity. It should also be borne in mind that the operating hours proposed are limited to the middle of the day during the working week. If permission were to be granted, in order to ensure the operation did not expand beyond that envisaged in the supporting documentation, any permission could be personalised and linked to the supporting documentation. The proposal will not be detrimental to residential amenity.

Access and road safety

The access to the land will be by means of an existing field access. The supporting statement and business plan submitted in support of the application state that there will be two vans entering and leaving the site twice a day. The total number of normal vehicle movements will be four per day. Dog owners will not deliver or collect their animals to or from the site.

Notwithstanding the proposal's broad compliance with policy ED7, there is an outstanding objection from Roads. They have assessed the application and conclude that it cannot be supported on road safety grounds. The application still has the same access as previously proposed and this application does not contain any proposal which would allow Roads to change their position from that adopted previously.

Impact on the River Tweed SAC

The site lies adjacent to the Eddleston Water, which is a tributary of the River Tweed SAC. The proposal will not affect the SAC.

Flooding

The south west corner of the site is shown on SEPA's flooding maps as being prone to flooding. As no structures are proposed and the flooding is in only a relatively small section of the site, the proposal does not raise concerns regarding flooding.

Conclusion

The proposed use is not one which can easily be located within an urban setting and a rural location is appropriate. The land will be used for the intended purpose for only a limited number of hours per day in the working week and for the majority of the week, the land will appear as any other field in a rural setting. No buildings for the site. Whilst the use is broadly acceptable in terms of policy ED7, the issue of road safety at the access has not been overcome to the satisfaction of Roads and a recommendation of refusal has been made in terms of policy PMD2.

REASON FOR DECISION :

The development does not satisfy policy PMD2 of the Local Development Plan 2016 in that it fails to ensure there is no adverse impact on road safety.

Recommendation: Refused

- 1 The development is contrary to Policy PMD2 of the Local Development Plan 2016 in that intensified traffic usage of the sub-standard vehicular access creates a detrimental impact on road safety on the A703. The continued use of the existing sub-standard access would result in an unacceptable adverse impact on road safety, including but not limited to the site access.

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