

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

29 APRIL 2013

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 11/01121/PPP
OFFICER:	Julie Hayward
WARD:	Jedburgh and District
PROPOSAL:	Erection of retail foodstore with petrol filling station, associated parking and access road
SITE:	Former Oregon Timber Frame Ltd and Riverside Workshops Old Station Yard Edinburgh Road Jedburgh
APPLICANT:	James Brown
AGENT:	James Hewit

SITE DESCRIPTION

The site is situated on the northern edge of Jedburgh to the east of the A68. The site comprises of four industrial buildings. The building at the northern end of the site was occupied by Border Print and packaging and is currently vacant. The other buildings are occupied by various uses including Borderland Fabrics, Border Buildings Ltd and Aim Hire selling and hiring out lawnmowers. The overall site area is 0.99 hectares. To the north is an area of vacant overgrown land, to the east is a public footpath, trees, the Jed Water and the Jedburgh Camping and Caravan Park, to the south are the Border Meringues premises and the Riverside Workshops and on the western side of the A68 are the Edinburgh and Jedburgh Woollen Mills and a petrol filling station.

There are two vehicular accesses into the site from the A68. The site is enclosed by 2m timber fencing and 1m post and rail fencing.

PROPOSED DEVELOPMENT

The proposal is to erect a food store on the site. This would provide 2,322 square metres of gross floor area with a net sales area of 1,625 square metres. A petrol filling station would be erected at the northern end of the site with a kiosk/shop.

The access road into the site to the south would be re-aligned to allow HGVs to access the service yard. The store's car park would be accessed from a new access with visibility splays towards the northern end of the site and the existing access would be closed off. The car park would provide 162 parking spaces and a cycle rack.

As this is an application for Planning Permission in Principle no details of the design or materials of the proposed store have been submitted and the layout is indicative.

The proposed site plan shows that the bridge over the Jed Water currently serving the caravan park will be removed and a new bridge formed to the south, but these works are outwith the red line boundary of the site and so do not form part of this proposal.

The application requires to be determined by the Planning and Building Standards Committee as the Council has a financial interest in the land.

PLANNING HISTORY

06/01052/FUL: Change of use of former assembly shop to storage and depot. Oregon Timber Frame Ltd Station Yard Edinburgh Road Jedburgh. Approved 3rd July 2006.

10/01201/PPP: Erection of retail food store with associated parking and access infrastructure. Former Oregon Timber Frame Ltd Station Yard Edinburgh Road Jedburgh. Refused by the Planning and Building Standards Committee on 17th October 2011 for the following reasons:

- The proposal is contrary to policy E12 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED1 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the proposal would result in the loss of allocated employment land where only Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are permitted and outright retail activities are not permitted to ensure an adequate supply of employment land is retained and to support existing town centres. This would create an undesirable precedent for other uses outwith Classes 4, 5 and 6 on safeguarded employment land sites.
- The proposal is contrary to policies E17 and E18 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the site is in an out-of-centre location that would affect the vitality and viability of the town centre and it has not been adequately demonstrated that sequentially this is the most appropriate site for a new food store in Jedburgh.

11/01455/PPP: Erection of retail food store with associated parking and access infrastructure on the same site as the application 10/01201/PPP. Refused by the Planning and Building Standards Committee on 13th February 2012 for the reasons set out above.

REPRESENTATION SUMMARY

Six representations have been received. These are available for Members to view on the Public Access System. The following planning issues have been raised:

- The owners of part of the site, Crabtree and Crabtree Ltd, do not support the application. The scheme is undeliverable, opportunist, ill-conceived and not supported by any of the required technical information. The submission is timed to disrupt the objective consideration of the original planning application (10/01201/PPP).

- The Co-operative Group has objected to the application and is concerned about the potential impact that an out-of-centre foodstore would have on the vitality of the town centre.
- The site is safeguarded as Employment Land (zEL33) under policy ED1 of the Scottish Borders Consolidated Local Plan Adopted 2011. This sets a presumption in favour of industrial and business uses (Classes 4, 5 and 6) on established industrial estates. Policy ED1 states that the development of allocated employment sites for anything other than Classes 4, 5 and 6 will be refused unless justified against appropriate criteria; shops and outright retail activities will not be allowed on any employment land unless that retail activity is ancillary (no more than 10% of total floor area) to some other acceptable activity. Policy ED1 is designed to preserve and support existing town and village centres. This is supported by Scottish Planning Policy and the Scottish Borders Consolidated Structure Plan 2001 – 2018.
- Local Plan policy lends no support to the proposed redevelopment of this employment site for retail use. The proposal is contrary to policy ED1.
- The site is some distance from the town centre boundary and surrounded to the east, west and south by industrial uses.
- The primary use in this location is employment use and the introduction of convenience retailing would alter the character and nature of the employment area, increase development pressure for alternative uses on business and industrial land and have a detrimental impact on surrounding employment uses diminishing the importance of the area for employment use and setting a precedent for uses other than employment.
- No information has been submitted to justify this loss of employment land or the potential impact on the surrounding industrial premises.
- The site is on the northern edge of Jedburgh some distance from the main residential areas and town centre and so would not be attractive to walk-in custom from local residential areas and the site is physically separated from the town centre by the Jed Water. The proposal is unsustainable in terms of its location.
- The out-of-centre location is not convenient for the main residential population of the town and not sequentially preferable.
- The application is deficient in terms of the information required by the Planning Authority to fully consider the application and so the application should be refused on the grounds of insufficient information.
- Planning permission was refused on 17th October 2011 for a foodstore development on this site. This application is for a similar retail development on the same site and the same policies and material considerations apply.
- The Supporting Statement submitted with this application attempts to justify the loss of employment land by promoting an alternative site at Wildcatgate, allocated for housing in the Local Plan. A planning application to change the use this site for employment land was refused on 15th July 2011 as the proposal was contrary to Local Plan policy.

- The site at Wildcatgate is undeveloped land and so not immediately available employment land; this is not a direct replacement of employment land. The proposal would therefore result in the loss of available employment premises to the detriment of effective employment land supply in the town.
- The Retail Statement does not provide any figures on available expenditure, clawback of leakage trade diversion or proposed turnover of the food store. There is no evidence to justify the proposal or the assumption within the Retail Assessment that the food store would not have a detrimental impact on the vitality or viability of the town centre.
- The location of the site is unlikely to promote linked trips to the town centre and the proposal would compete directly with the town centre. There would be a high dependence on the private car and the proposal would divert trade from the town centre to an out-of-centre location to the detriment of local retailers and businesses located in the town centre. The proposal would be detrimental to the vitality and viability of Jedburgh town centre.
- The Jedburgh Traders Association object to the application. Jedburgh already has two supermarkets, one at each end of High Street. Building another supermarket would damage the town centre and tourists do not like to see empty shops. The Borders has enough supermarkets to satisfy the population. Real jobs would not be created for people in Jedburgh; companies in Jedburgh struggle to recruit at times from the local labour pool and a large number of the working population comes from outside the town and so a lot of people employed in the supermarket would spend their salary outside Jedburgh. Profits of these large organisations go to shareholders outwith the Borders whereas local shops and workers spend in the community and help the community grow. The supermarket would be sited at one of the main entrances into the town.
- The proposed petrol filling station would be opposite the town's long-standing filling station.
- The proposal is contrary to policies E12, E17 and E18 of the Structure Plan and policies within the Local Plan and there are no material considerations to override these policy reasons for refusal.
- The proposal does not comply with the requirements of the sequential test and alternative more acceptable sites are available.
- The proposal would prejudice the availability and marketability of employment land within the town needed for economic recovery.
- Scottish Energy Networks has no objection to the proposal but advises that high and low voltage underground cables may or may not be situated with the direct line of the new construction. The applicant should contact them to request accurate and up-to-date cable records.

APPLICANTS' SUPPORTING INFORMATION

The following information has been submitted by the agent and is available for Members to view in full on the Public Access System:

Supporting Statement:

- A retail unit of 2,322 square metres would be more comparable with supermarkets located in other centres and would meet the deficiency in food shopping in Jedburgh.
- A significant level of the proposed store's trade will be from clawback lost to larger stores in other towns.
- The applicant is in detailed discussions with Tesco and Asda and this will offer genuine consumer choice.
- A foot survey of vacant shops was undertaken on 26th October 2011 and the results differed to those submitted under application 10/01201/PPP and also to the Council's Retail Survey undertaken in 2010.
- Alistair Burrell Associates have prepared commentary on the traffic impact but proposes to refer to documents submitted under application 10/01201/PPP, which is understood to have been largely accepted by the Council.
- Policy I18 of the Structure Plan and G2 of the Local Plan refer to developments proposed on contaminated sites. It has been accepted that no action is required in this respect.
- The immediate area around the site is characterised by a variety of commercial uses, including retail and tourism uses. The site is well related to these visitor attractions and would add to the attraction of this part of town, benefitting the local economy. The proposal represents an employment generating use potentially creating a greater number of jobs than the previous use and regenerating a redundant, vacant site.

Transport Assessment:

- The proposals considered in application 10/01201/PPP are similar to this application other than in this case the existing entrance to the caravan park is to be closed, the unsafe bridge with the height restriction will be removed and a new bridge will be built over the Jed Water at the end of the existing entrance to Border Meringues at the south end of the site.
- The entrance to the car park and petrol filling station will be formed from the A68 towards the north end of the site.
- Transport Scotland has no objection to the proposals provided the junction at the site access from the A68 is upgraded to their specification. The Roads Planning Service has raised a number of concerns regarding access through the site and the layout of the service area. These requirements can be met by planning conditions if this application is approved. Further design details will be submitted if required.

Employment Land Statement:

- This application does not challenge the long term need to maintain employment land in Jedburgh nor does it propose any direct loss of employment land.
- The applicant proposes to offer 0.23 hectares of unallocated compensatory land contained within the settlement boundary at Bankend to the west of the Shell petrol filling station which is currently not in use, is accessible and relates well to adjacent land uses.
- In accordance with policy ED1 the proposal for food retail offers significant benefits to the surrounding area and community that outweigh the need to retain the site in employment use.
- The land at Wildcatgate (AJEDB005) has been allocated for residential use but is unlikely to be developed for that use in the Local Plan period due to an abundance of more appropriate housing land elsewhere in the town, where take-ups are all but non-existent. An application for the change of use of land to the south east of Head Keeper's Cottage Wildcatgate was refused as it could not relate to a simultaneous application for employment land displacement. It is proposed that this application be resurrected and the original concerns met and this new application should be read in conjunction with the current food store application.
- There is sufficient employment land for the plan period with sufficient sites available, brownfield sites at Bankend and Edinburgh Road as well as zoned and allocated employment land. In the absence of residential demand for the site at Wildcatgate during the Local Plan period there is a reasonable justification for providing compensatory employment land, which is considered key to economic recovery.
- The site at Wildcatgate is zoned for residential use and there is an approved planning brief. It can be demonstrated that employment use with careful consideration to scale, mass and height of buildings would not have an adverse impact on the adjacent category B Listed Building, Head Keepers Cottage.
- The formation of an access at the Wildcatgate site would be required for residential development or employment land use and requires to be sensitively designed. It is not intended to develop the whole site and careful consideration will be given to the existing and adjacent woodlands.

Retail Assessment:

- The site comprises of the former Oregon Timber factory, which is disused, Border Print and Packaging and a vacant workshop premises.
- The food store would have a gross internal floor area of 2,320 square metres and a net sales area of 1,625 square metres. A petrol filling station with 8 bays and a shop/kiosk with a gross internal floor area of 130 square metres is also proposed.

- A single road junction would serve the store from the A68 and there would be direct pedestrian access from the store entrance to public transport facilities on the A68.
- The store would be located in the southern part of the site providing an opportunity for a well designed frontage onto the A68 identifying the site as a clear entry point into the town.
- The store will be of sufficient size to provide a wide range of facilities and services but the main function would be to cater for main food shopping.
- The primary catchment area for the proposed store is the town of Jedburgh along an extended corridor along the A68. The catchment area to the north includes Lanton, Ancrum, Maxton, St Boswells and Newtown St Boswells. The catchment area to the south extends to Rochester, Otterburn and West Woodburn.
- The main food store in Jedburgh is a Co-op supermarket on High Street, a smaller Co-op in Canongate and a Key Store convenience food store in Lothian Road. There are also local independent convenience goods shops such as bakers, butchers and newsagents throughout the town but mainly in High Street.
- Stores outwith Jedburgh include Tesco (6500 square metres) and Asda (6500 square metres) in Galashiels, Morrison's (3867 square metres) and Sainsbury's (2320 square metres) in Hawick, Sainsbury's (4320 square metres) in Kelso and the Co-op (700 square metres) in St Boswells.
- A foot survey of vacant shops undertaken on 26th October 2011 revealed there were 8 vacant properties in High Street and Canongate. This application will seek to rejuvenate the town centre by reducing leakage and retaining trade within Jedburgh. A plan showing the location of the vacant shops is included with the submission.
- The store would represent a new national operator in Jedburgh.
- It is estimated that the primary catchment area would have a population of 22,800 in 2009. Additional trade is expected from pass-by trips and tourists.
- Qualitative need is concerned with consumer choice in terms of ensuring a suitable range of sites and choices that meet the needs of the local community. Given the lack of choice to residents there is a strong qualitative need for a new food store in Jedburgh. There is a deficiency in convenience goods stores and main shopping provision within the catchment area which is evident by the leakage of trade from the catchment area to larger stores in Galashiels, Hawick and Kelso. The Co-op is used for top-up shopping.
- The proposed store is similar in size to the Sainsbury's in Hawick and would be large enough to compete with the food stores in Galashiels, Hawick and Kelso and be able to claw back trade lost from the town and catchment areas to other centres.
- The proposed store will improve consumer choice and competition and meet the needs of residents for main food shopping.

- The store would be larger than existing shops in Jedburgh but smaller than the main food stores in Galashiels, Hawick and Kelso but would be of an appropriate scale for Jedburgh.
- The sequential approach should be used when selecting locations for all retail developments. Town centre, edge-of-centre and out-of-centre locations that are accessible to a choice of transport modes should be considered. There are two possible sites capable of accommodating a store of this size within the town centre. The first is at the junction of the Pleasance and Bridge Street and identified in the Local Plan for redevelopment (RJEDB001). This would accommodate the store but car parking provision would be less than required. The site is occupied by a number of buildings, including the fire station, which would need to be relocated. This site is unsuitable and unavailable for the proposed development. The second site is the Canongate car park. This is centrally located and large enough to accommodate the store and a small amount of car parking. It would be unacceptable and unrealistic to lose such a significant site and so is unsuitable.
- The sequential site assessment has proved there are no available suitable sites within the town centre or edge-of-town centre capable of accommodating the proposed development.
- There is evidence of high leakage of spending out of the Jedburgh catchment area to Galashiels, Hawick and Kelso. It is estimated that 75% of the proposed store's turnover would be trade clawed back from this leakage with a further 10% from visitor spending. The remaining 15% would be drawn from trade diversion in the catchment area (12% from the Co-op and 3% from other shops in the town centre). The main impact is on the Co-op, which is over-trading for a store of its size, and so the proposal would not adversely affect the existing store's long term viability.
- The overall trade diversion from the town centre would not have a significant negative impact on the vitality and viability of town centre shops. The proposal can be viewed as positive as it will keep trade within Jedburgh and increase trade to smaller retail outlets in High Street.
- The site is located adjacent to the A68 and so is accessible by car and is on a main bus route with bus stops close by. The site is accessible by foot and cycle with residential properties within 300m radius of the store.
- The proposal would reduce long distance shopping trips to Galashiels, Hawick and Kelso, reducing expenditure on fuel costs and would benefit public transport in the town.
- The application site is a partly disused industrial site with existing buildings in a poor condition, surplus to requirements as they have been unoccupied for a number of years.
- The proposal would regenerate an unattractive area, enhancing visual amenities at the entrance to Jedburgh and providing employment.

Flood Risk Assessment:

- Recommends that the finished floor level of the store is 68.65m OD, the general level of the car park is 67.5m OD and the road level at the filling station is 67.5m OD.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Structure Plan 2001-2018

Policy N2: International Sites
Policy E12: Employment Land Supply
Policy E17: Location of Retailing Developments
Policy E18: Out of Centre Retail Developments
Policy I1: Transportation and Development
Policy I7: Walking
Policy I11: Parking Provision in New Development
Policy I14: Surface Water
Policy I15: Flood Risk Areas
Policy I18: Contaminated land

Consolidated Scottish Borders Local Plan 2011

Policy G1: Quality Standards for New Development
Policy G2: Contaminated Land
Policy G4: Flooding
Policy NE1: International Nature Conservation Sites
Policy ED1: Protection of Employment Land
Policy ED3: Shopping Development
Policy H2: Protection of Residential Amenity
Policy Inf4: Parking Provisions and Standards
Policy Inf6: Sustainable Urban Drainage
Policy Inf11: Development that Generates Travel Demand

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy February 2010

PAN 33: Development of Contaminated Land (Revised October 2000)
PAN 52: Planning and Small Towns
PAN 66: Best Practice in Handling Planning Applications Affecting Trunk Roads
PAN 69: Planning and Building Standards Advice on Flooding
PAN 75: Planning for Transport

Scottish Borders Council Retail Survey Winter 2012
Scottish Borders Council Retail Study September 2011
Scottish Borders Council Employment Land Audit December 2012

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Economic Development:

Initial Observations:

The application affects land where a 25 year lease exists with a right of access until 2025, and this is shown to be extinguished by this proposal. The applicant proposes a new bridge from the road at the Riverside Workshops, which would be a requirement of extinguishing the existing caravan site access, yet this is not shown in the application site and the land would not be within the control of the applicant. In addition, the footpath along the riverside is part of the Core Paths Plan and network and as such it has a certain protected status and no alternative route has been proposed and would be terminated by this proposal.

This alternative use for this site as a supermarket is contrary to policy as the site is protected for employment use (Classes 4, 5 & 6) and we would not want see the loss of any employment land, despite the availability of new green field sites at Oxnam Road and other vacant brownfield sites in the town, such as at Bankend South and Riverside Mills, Upper Bongate. The town will eventually benefit from having a range of sizes and types of sites and in different locations for business use, especially when the economy becomes stronger. In addition, Jedburgh town centre needs to retain its vitality and viability so the Council's Local Plan's policies ED3 and ED5 supports this aim and therefore we could not support a supermarket at this site.

There are issues regarding access especially in regard to the supermarket delivery entrance and what is now proposed to be the access to the caravan site, the football pitches and where extensive traffic is taken during the Jedforest sevens day. There is local conflict on the A68 when vehicles enter and access the petrol station, the Riverside workshops area and from Bankend South junctions. This would be exacerbated with the additional traffic mentioned above and would now also conflict with the numerous cars who park on this road whilst visiting the Border Meringues premises. In addition the caravan site access has acceleration and deceleration zones and a large bellmouth to accommodate access by users towing caravans and this has not been replaced in the suggested alternative access location. The access is shown from the edge of the deceleration zone, not the trunk road edge, therefore there is discrepancy in the layout. This zone will also encourage parking adjacent to the trunk road and should not be supported.

The application shows development hard up against the rear of a footpath adjacent to the trunk Road. The Council have undertaken substantial works to improve the attractiveness of the entrance to Jedburgh from the north for tourist visitors with substantial new trees and hedging. As such this proposal would be a huge intrusion into the landscape and should be suitably screened and landscaped, so the current layout is unacceptable in these terms.

There has in the past been concern in the local community at the existing retail premises in this area through tourists bypassing town centre shop premises and affecting their viability. It would be of concern that further erosion would take place should this be approved, as footfall would ultimately be less on the High street.

This application seems poorly thought through with, apparently, no consultation with the affected parties. The town benefits from tourist visitors and this proposal will be a

detraction in terms of its impact and especially in regard to the disturbance to the caravan site.

Re-consultation Following Submission of Supporting Information:

In terms of new information, I note that the applicant proposes the loss of the zoned employment land with an alternative site but this is only 0.23ha to replace the loss of the application site which is 0.99ha. This land also would require having the benefit of planning permission for employment use and would need to be tied back to this application to be in any way partly acceptable.

The applicant refers to revisiting the replacement of land with land at Wildcatgate under application 11/00821/PPP. This application was refused and, from Economic Development's point of view, our comments still apply. 'There is no case for new employment land in the town in the near future, with sufficient new sites available, existing brownfield sites at Bankend and Edinburgh Road, which are protected by policy, and there is further zoned and allocated employment land for the plan period. This site's topography is not ideal for employment use which as a flat site is preferable. The site is close to residential properties, which may be affected, and whilst the access position has not been identified it will be round a blind corner and visibility is not ideal for manoeuvring large vehicles. The site is at the extremes of servicing for foul drainage and may involve what could be a costly pumped system. The site should be served by a footpath and the applicant does not control this land, which will be remote from the existing footpath network. This section does not support this change of allocation or proposed new use.'

Generally there is nothing new in the additional information received that could affect our earlier views. There is no supporting information on this bridge proposal or whether it is actually achievable within the space available, therefore the application is predicated on this being possible but it has not been demonstrated to be achievable. This is especially important where the vehicles needing to use this bridge are cars with trailing caravans and need a higher standard of junction, similar to what currently exists for the current caravan site access.

Flood Protection Officer:

Initial Observations:

In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River & Coastal Flood Map (Scotland) known as the "second generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any year.

The Jedburgh Flood Study prepared by JBA in May 2006, for this Council, also shows the proposed development to be within the 1 in 200 year inundation outline for the Jed Water with predicted levels varying from 68.75m and 68.12m AOD over the proposed development. These levels do not include an allowance for climate change. A flood risk assessment is required.

Re-consultation Following Submission of Flood Risk Assessment:

I would expect that the finished floor level of the development to the 1 in 200 year flood level of 68.75mOD

As the new building footprint is only slightly reduced from the footprint of the existing buildings, I would therefore request that the remaining land within in the application boundary is kept to the existing ground levels to ensure that flood storage is not reduced and flood risk is not increased elsewhere.

Local Plan Section:

The proposed development is located within site zEL33 an Employment Land Safeguarding (ED1) included in the adopted Scottish Borders Local Plan. Policy ED1 has been revised during the process of the Local Plan Amendment in order to avoid the dilution of employment land supply in the Scottish Borders with a view to strengthening the Council's position in this respect. This revised policy reflects the latest Council position and is now the most up to date material planning policy consideration against which this application must be judged.

Policy ED1 states that there is a presumption in favour of the retention of industrial and business use on strategic and other employment sites. Established industrial estates will be retained for industrial development within Classes 4, 5 and 6. Other uses will be refused unless:

(a) the loss of employment land does not prejudice the existing and predicted long term requirements for industrial and business land in the locality, and

(b) the alternative land use is considered to offer significant benefits to the surrounding area and community that outweigh the need to retain the site in employment use, and

(c) there is a constraint on the site whereby there is no reasonable prospect of it becoming marketable for employment development in the future, or

(d) the predominant land uses have changed owing to previous exceptions to policy such that a more mixed use land use pattern is now considered acceptable by the Council.

In all employment land site categories development must:

- respect the character and amenity of the surrounding area, and be landscaped accordingly, and
- be compatible with neighbouring employment uses.

Specifically, the policy states that shops and outright retail activities will not be allowed on any employment land, the only retailing permissible will be that which is considered to be ancillary to some other acceptable activity (e.g. manufacture; wholesale). For the purposes of this policy, ancillary is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area.

In respect of criterion (a), whilst it is accepted that there has been limited demand for employment land in Jedburgh over recent years, the long term needs (20 years+) of the settlement must be considered. The loss of employment sites to alternative uses must be avoided as once they are lost they cannot be replaced.

In respect of criterion (b) it is not considered that the proposed development would result in significant community benefits which would outweigh the need to retain the site in employment use.

In respect of criterion (c), the site has operated in employment use until relatively recently and there are no known constraints on the site which would mean that there is reasonable prospect of it becoming marketable for employment in the future. No evidence has been provided to the contrary in the supporting documentation.

In respect of criterion (d), the predominant land use within the vicinity remains employment and it is important to retain this.

Policy ED1 clearly states that retail activity will not be permissible on employment land unless it is ancillary to some other acceptable activity. This is not the case in this instance. Therefore the proposals do not meet the requirements of Policy ED1 and should be refused.

The application must also be considered against Structure Plan policies E17 (Location of Retailing Developments) and Policy 18 (Out of Centre Retail Development). These policies aim to guide new shopping development to town centres and thereby help protect and enhance the vitality and viability of these centres, as defined in the Local Plan. A “sequential test” ensures that the first preference for retail development is given to town centre sites, followed by edge-of-centre sites and only as a last resort, out-of-centre sites. However, in this particular case, because the application is in relation to a site specifically protected from retail development, the outcome of the sequential test is only relevant in so far as it might identify other alternative sites for retail development. The potential of any town centre sites for retail development must be fully assessed before any edge-of-centre or out-of-centre sites are considered.

Roads Planning Service:

Initial Observations:

In terms of sustainable transport, this location is far from ideal. While, in its favour, it is on a main bus route, it is extreme edge of town, so that it is not within easy walking distance for the majority of residents in Jedburgh; this would be likely to do little to discourage the use of cars.

It is likely however that a right hand turning lane will be required on the A68. This may involve land on the opposite side of the A68 from the development which is outwith the application site and outwith the applicant's control.

Not forgoing the above, I would make the following comments regarding the proposal.

1. A Transport Assessment will be required for the proposal.
2. There is conflict between the indicated turning area for service vehicles and the store building. An articulated vehicle will not be able to access the service yard, turn as indicated and then leave the yard.
3. The location of the filling station access in relation to the site access is likely to cause vehicles to back up. This could impede on the free movement of traffic on the A68.
4. The internal layout around the vicinity of the filling station access is unacceptable. The number of accesses in close proximity is likely to lead to congestion within the site with traffic backing up and being unable to move freely.

5. The internal layout of the filling station appears to be restrictive. More detailed drawings are required showing that vehicles can enter and leave the site and use the apparatus safely.
6. There are no provisions indicated for bus travellers. This may involve the provision of bus lay-bys.
7. There are no proposals indicated as to how the applicant proposes to deal with surface water, including the provision of SUDS.
8. The new access details do not appear to accurately tie-in with the existing road layout in that the radii appear to tie-in with the deceleration lane as opposed to the carriageway edge.
9. There are no details relating to the relocation of the bridge and access track to the caravan site.
10. There should be a minimum of 10 disabled parking spaces, a minimum of 10 parent and child spaces, a minimum of 6 cycle racks provided within an enclosed/covered location and 109 general parking spaces provided, including the parent and child spaces but excluding the disabled spaces.
11. There is a lack of trolley bays indicated within the car parking area.

Re-consultation Following Submission of Supporting Information:

The revisions to the layout do not make any significant changes to the overall proposal and as such, my previous comments still apply to the revised drawing. More detail will be required to ensure the raising of the store and surrounding land does not have an adverse effect on the existing road and footpath network. If the application is approved, these details would have to be submitted for the Council's approval during the formal consideration of any subsequent application.

Environmental Health:

The application appears to be proposing the redevelopment of land which was previously used as a railway siding. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

Noise levels emitted by any plant and machinery used on the premises should not exceed Noise Rating Curve NR20 between 2300hrs and 0700 hrs and NR 30 at all other times, when measured within the nearest noise sensitive dwelling. 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. No deliveries or associated activities should take place between 22:00 hrs and 07:00 hrs.

The applicants should be required to submit a quantitative assessment of the impact of the proposed development on local air quality. The assessment should address emissions from fuelling activities, vehicles using the site and any other potential pollution sources.

Access Officer:

According to our records there is a Core Path on and adjacent to the planning application site along the Jed Water Riverside. This Core Path 107 is a riverside path adjacent to the site bounded at present with trees on the riverside and a fence-line on the side adjacent to the site. It currently then follows an existing pavement to cross the area of the proposed development site and joins the roadside path. The route Core Path 107 also forms part of a promoted countryside access route – Lanton Moor and Timpendean Tower –route 4 in the Paths around Jedburgh booklet. This Core Path should be maintained open and free from obstruction in perpetuity, both during and after development.

As this proposed development is likely to generate traffic it is requested that the routes for pedestrian use are dedicated to non-vehicular traffic. Pedestrian routes should be made up to a safe condition and one such route from the town should allow access for pushchairs and less able people. The separation of pedestrian and vehicle movement would be useful in and near such a busy site.

There is an opportunity to create a route around the proposed site by continuing the riverside path. Dog-walkers, countryside path users, cyclists and horse riders could then have a route separated completely from the development and also with a more rural feel, compared to if the route were to continue only on the route currently used which would be through the proposed development.

The development has implications for the ability of the public to exercise rights of access along Core Path 107. In particular the development does not define a route for countryside path users on Core Path 107. A separate defined route away from traffic and parking area should be created following the riverside along the edge of the proposed development. The existing line of the Core Path should also be defined through the development with footpaths.

It is essential that these rights are not obstructed by the development and that the public shall continue to enjoy access to the Core Path without risk from machinery, ground disturbance or any other aspect of development works.

Statutory Consultees

SEPA:

Initial Observations:

We note that you have requested further information from the applicant for this application including a flood risk assessment (FRA). Therefore, in light of the limited information available at this time we would prefer to be re-consulted when this further information is available. If an FRA is being undertaken for this development then we recommend that it should include any proposed flood risk mitigation and consider any impacts that these measures may have on the risk of flooding elsewhere.

Re-consultation Following Submission of Flood Risk Assessment:

We have reviewed the Flood Risk Assessment (FRA) undertaken by Alastair Burrell Associates. The assessment of flood levels at this site was based on a Flood Study undertaken by JBA Consulting for Scottish Borders Council in May 2006. The results of this study indicate that the entire site lies within the 0.5% AEP (1:200) floodplain.

The proposed commercial development replaces existing buildings of a similar area and therefore it is likely to have a minimal effect on floodplain storage and conveyance. Based on this, the proposal represents largely a commercial risk to the applicant and is unlikely to materially increase flood risk elsewhere. It is also noted that the proposed development is not an increase in sensitivity of use.

The FRA proposes a finished floor level of 68.65m for the store which would be suitable provided this could be achieved without landraising. All outside areas of the development including car parking and service yard should also remain at existing ground levels to ensure that the risk of flooding is not increased elsewhere.

Mitigation measures such as land raising would need to be linked to the provision of like for like compensatory storage in accordance with Scottish Planning Policy. However, it is unlikely to be feasible at this location as the entire site boundary is within the functional flood plain.

Therefore, based on this information, we object to this application unless a planning condition is imposed to ensure that there will be no alterations to existing ground levels within the site boundary to ensure that the risk of flooding is not increased elsewhere.

We object to this application unless a planning condition is imposed requiring two levels of sustainable drainage (SUDS) surface water treatment to ensure adequate protection of the water environment from surface water run-off.

The planning application details that the proposed development would be utilising the public sewer for foul drainage, and therefore we have no further comment to make on this issue.

Jedburgh Community Council:

No objections in principle but there are reservations regarding the petrol filling station and the removal of the existing bridge.

Transport Scotland:

Initial Observations:

As term consultant to Transport Scotland, JMP has undertaken a review of the Transport Assessment (October 2011) prepared by Alastair Burrell Associates and would confirm that the level of detail provided in the aforementioned document is considered wholly inadequate to allow Transport Scotland to respond to Scottish Borders Council on this planning application.

We note that the Transport Assessment (TA) refers to a previous planning application (Ref: 10/01201/PPP) for a foodstore on this site. Given that the proposed foodstore with a gross floor area (GFA) of 2,322m² is larger than the previous proposal (i.e. 1,300m² GFA), we would expect the TA to include the same level of detail.

It is noted that access arrangements would appear to differ. The previous application proposed access from the southernmost existing access to the site from the A68 Edinburgh Road while this application would appear to propose service access from the southernmost junction and customer access via the replacement and subsequent closure of the northernmost existing access to the site from the A68. It is therefore

not considered to be acceptable to simply state that “According to the council notes Transport Scotland has no objection to the proposals provided the junction at the site access from the A68 is upgraded to their specification”.

Further Observations:

The Director advises that planning permission be refused. There is insufficient information to determine this application. The applicant has failed to provide a detailed Transport Assessment as requested by Transport Scotland in November 2011. However, should the aforementioned information be made available at a future date, Transport Scotland will be prepared to re-consider this planning application.

Other Consultees

None

KEY PLANNING ISSUES:

- Whether or not the proposed use accords with Development Plan policies on the protection of employment land and retailing development in an out-of-centre location, in particular, whether the retail capacity exists to accommodate the proposal without an overall detrimental impact on Jedburgh town centre;
- Whether the proposals would have an unacceptable impact on neighbouring residential amenity;
- Whether the proposals would have an unacceptable impact on visual amenities;
- Whether satisfactory access, parking, servicing and related matters can be achieved;
- Whether the development can be safeguarded from flood risk without creating unmanageable problems elsewhere;
- Consideration must also be given to the mitigation of any site contamination.

ASSESSMENT OF APPLICATION:

Planning permission for the erection of a retail food store with associated parking and access infrastructure on this site has been refused twice in the past by the Planning and Building Standards Committee (applications 10/01201/PPP on 17th October 2011 and 11/01455/PPP on 13th February 2012, which were for the same proposal) for the following reasons:

- The proposal is contrary to policy E12 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED1 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the proposal would result in the loss of allocated employment land where only Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are permitted and outright retail activities are not permitted to ensure an adequate supply of employment land is retained and to support existing town centres. This would

create an undesirable precedent for other uses outwith Classes 4, 5 and 6 on safeguarded employment land sites.

- The proposal is contrary to policies E17 and E18 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the site is in an out-of-centre location that would affect the vitality and viability of the town centre and it has not been adequately demonstrated that sequentially this is the most appropriate site for a new food store in Jedburgh.

These refusals are a material planning consideration. However, this application is for a larger site (0.99 hectares compared to 0.60 hectares), is for a larger store (2,322 gross square metres compared to 1,300 gross square metres) and includes a petrol filling station. This application therefore has to be assessed on its own merits against the relevant national, Structure Plan and Local Plan policies.

Planning Policy

Employment Land

Scottish Planning Policy published by the Scottish Government states that Planning Authorities should ensure that there is a range and choice of marketable sites and locations for businesses allocated in development plans to meet anticipated requirements in terms of variety of size and quality. Marketable land should meet business requirements, be serviced or serviceable within 5 years, be accessible by walking, cycling and public transport and have a secure planning status.

Policy E12 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 states that the Council will seek to secure the provision of a range of marketable sites, of the right size and quality to meet the requirements of business and industry. Local Plans will identify appropriate sites to meet those requirements, taking particular account of the relationship of the site to the development hub and the principal public transport corridors and opportunities for brownfield development.

The site is allocated within the Scottish Borders Consolidated Local Plan Adopted 2011 as safeguarded employment land, part of a 2.3 hectare site (zEL33) on Edinburgh Road Jedburgh. Policy ED1 is the most up to date policy in respect of this current application and states that there is a presumption in favour of the retention of industrial and business use on employment sites. Established industrial estates and other industrial locations will be retained for industrial development within Classes 4, 5 and 6. Other uses will be refused unless certain criteria are met. Shops and outright retail activities will not be allowed on any employment land. The only retailing permissible will be that which is considered to be ancillary to some other acceptable activity; ancillary is taken as being linked directly to the existing use of the unit and comprising of no more than 10% of the total floor area.

However, the proposal has to be robustly tested against the whole policy, as ED1 states that other uses will be refused unless certain criteria are met:

1. the loss of employment land does not prejudice the existing and predicted long term requirements for industrial and business land in the locality, and
2. the alternative land use is considered to offer significant benefits to the surrounding area and community that outweigh the need to retain the site in employment use, and

3. there is a constraint on the site whereby there is no reasonable prospect of it becoming marketable for employment development in the future, or

4. the predominant land uses have changed owing to previous exceptions to policy such that a more mixed use land use pattern is now considered acceptable by the Council.

In respect of criterion 1, whilst it is accepted that there has been limited demand for employment land in Jedburgh over recent years, the long term needs (20 years plus) of the settlement must be considered and it is considered that the loss of employment sites to alternative uses must be avoided as once they are lost they cannot be replaced.

Whilst on the face of it, it would appear that there is an adequate range and supply of employment land and premises which are available immediately and in the long term it is contended that there is in a limited supply of immediately available employment land within Jedburgh. The Council's Employment Land Audit December 2012 identifies 8.6 hectares of established employment land in Jedburgh; these are sites allocated in the Local Plan, undeveloped or under construction. Of this, only 6.6 hectares is available immediately due to relatively significant constraints with 1.0 hectares available within the next 1 to 5 years and approximately 1.0 hectares of employment land supply in Jedburgh which is not expected to be available within the next 5 years.

The aim of Policy ED1 is to ensure that adequate supplies of employment land are retained for business and industrial use and are not diluted by a proliferation of other uses. The policy recognises the financial difficulty in bringing forward new employment land. The capital expenditure cost to the Council of providing employment land is exceptionally high. For example, a 2.7 acre employment site at Oxnam Road in Jedburgh was extended, whereby services and an industrial estate road were installed for new employment sites. This was provided at a cost of approximately £470,000 to the Council with an additional £60,000 for land costs, totalling £530,000. This equates to approximately £200,000 per acre. The maximum achieved through site sales would be approximately £60,000 per acre, one third of the total site preparation costs. This highlights the need for the Planning Authority to robustly protect employment land, as the costs in providing additional land is prohibitive.

It is accepted that take-up rates have been low in Jedburgh; only 0.2 hectares of employment land has been taken up in the town between April 2011 and March 2012 with a steady decrease in the take-up rate of established employment land since 2008. However, this must be considered in the context of the slowdown in economic conditions and does not justify the loss of the protection of these sites. There must be sufficient supply of employment land to accommodate an upturn in economic growth and to protect future employment opportunities. In addition, there is limited flat land within Jedburgh to allocate as new or replacement employment sites due to the town's topography if the existing ones are lost to alternative uses.

It is considered vital that these sites are safeguarded for employment uses and not diluted by a proliferation of other uses. This application would not only use a considerable proportion of the employment land allocation but would also dissect it. There is a further risk that it would set a precedent for allowing other non-employment uses on employment land sites that would weaken this policy and result in the gradual loss of employment land over time.

The Employment Statement submitted with this application advises that the applicant proposes to offer 0.23 hectares of unallocated compensatory land for employment contained within the settlement boundary at Bankend to the west of the Shell petrol filling station, which is currently not in use and a site at Wildcatgate Jedburgh.

Planning permission (reference: 11/00821/PPP) was refused for the change of use of an 0.85 hectare site from agricultural land to form employment land on a site to the south east of Head keepers Cottage Wildcatgate Jedburgh on 15th July 2011 for the following reasons:

- The proposed development would be contrary to Policy H3 (Land Use Allocations) of the Consolidated Scottish Borders Local Plan (2011) in that site is allocated in the development plan for an alternate land use, and no suitable justification for a departure from the development plan has been provided.
- The proposed development would be contrary to Policy BE1 (Listed Buildings) of the Consolidated Scottish Borders Local Plan (2011) in that impacts of the proposed development upon the setting, character and integrity of the adjacent B Listed Head Keepers Cottage have not been suitably demonstrated.
- The proposed change of use would be contrary to Policy NE4 (Trees Woodlands and Hedgerows) of the Consolidated Scottish Borders Local Plan (2011) and adopted Supplementary Planning Guidance on Trees & Development and Landscape & Development, in that it has not been demonstrated that employment development within the site, including formation of an access and groundworks can be achieved without causing detrimental impacts upon the existing woodland resources within and adjacent to the application site.

This site is allocated in the Scottish Borders Consolidated Local Plan Adopted 2011 (AJEDB005) for housing under policy H3 and any future proposals to use this land as compensatory employment land would be contrary to policy H3 and is unlikely to be supported by this Department for the reasons given above. The Economic Development Section of the Council advises that there is no case for new employment land in the town in the near future with sufficient sites available, which are protected by policy and there is further zoned and allocated employment land for the Local Plan period. This site's topography is not ideal for employment use, as flat land is preferable. The site is close to residential properties, which may be affected, and visibility is not ideal for manoeuvring large vehicles. The site is at the extremes of servicing for foul drainage and may involve what could be a costly pumped system. Aside from these significant issues, the application site is likely to be more attractive as an employment site on account of its direct access onto the A68 and high visibility at the northern entrance to the town. In order to ensure the competitiveness of the town as an employment location, it is therefore important that the most attractive employment sites are retained and are available for delivery when the economy picks up.

The Council has an obligation to allocate sufficient land for housing development to meet long term land supply requirements over the Structure Plan period and beyond, which is achieved through the Local Plan process. Although the allocated housing site at Wildcatgate may not be developed within this Local Plan period it would be

required for housing development in the long term as development land in Jedburgh is severely restricted by the topography and road network and so it is important to retain this allocation and not change it to employment. Any change in the allocation of this land should be through the Local Plan process.

Although requested, no details of the site at Bankend have been submitted for consideration; however, the site is only 0.23 hectares in size compared to the 0.99 hectares that would be lost if the proposed food store was approved on the Edinburgh Road site.

In respect of criterion 2, it is accepted that the proposal would generate new employment opportunities for Jedburgh and potentially improve the visual amenities of the area by redeveloping a currently vacant site. However the proposal is contrary to policy ED1 which prohibits retailing on employment sites and it is considered that the proposed development would not result in significant community benefits which would outweigh the need to retain the site in employment use.

In respect of criterion 3, the site has a history of employment use. At the moment the majority of the units are occupied by different businesses including Border Buildings Ltd who manufacture timber buildings, Aim Hire who sell, hire and repair lawnmowers, Borderland Fabrics a quilting workshop and Footeprint a printing business. Only the former Border Print and Packaging building on the northern edge of the site is vacant and advertised as being to let. There are no known constraints on the site, which means that there is a reasonable prospect of this building coming back into employment use in the future. No details of the marketing of this building have been included in the Employment Statement.

The existing buildings on the site are in a good state of repair, the site is serviced and has good access links to the A68 and the vacant building could be used for employment uses without considerable expense. This is a valuable, primary and high profile employment site, being located at the northern entrance into Jedburgh. The loss of this employment land would be compounded by the loss of existing buildings, which have an important value as the capital cost to replace such buildings would be high. The site is immediately available for employment use, unlike other allocated sites in Jedburgh. Businesses need to have access to a range of sizes, quality and locations of buildings, depending on the type of business searching for available premises.

The proposal for a food store on this site would result in the demolition of the existing buildings which would mean the existing businesses that operate within the site would have to find alternative premises, potentially outwith the town or surrounding area and potentially resulting in the loss of existing jobs.

In respect of criterion 4, the predominant land use within the surrounding area remains employment, with the exception of the woollen mills and petrol station and these premises are not located within sites protected by policy ED1. In view of the overall policy, it is important to retain this area of employment land. The proposal would result in the loss of employment land, which should be avoided despite the availability of new green field sites at Oxnam Road and other vacant brownfield sites in the town, such as at Bankend South, Riverside Mills and Upper Bongate. The town will benefit over time from having a range of sizes and types of sites and in different locations for business use, especially when the economy becomes stronger.

It is therefore considered that the proposal is contrary to policy ED1 of the Local Plan. The view that the proposal is contrary to policy E12 of the Structure Plan is also

maintained. This policy seeks to secure the provision of a range of marketable sites of the right size and quality to meet the requirements of business and industry via Local Plan allocations. The loss of allocated employment land to retailing would undermine the aim of this policy.

Retail Issues

Scottish Planning Policy states that town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities, as well as homes and businesses. Retail and leisure uses are fundamental to the concentration of other activities located in town centres and the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. Vitality is a measure of how lively and busy a town centre is. Viability is a measure of capacity to attract ongoing investment for maintenance, improvement and adaptation to changing needs. Together these measures give an indication of the health of a town centre.

Scottish Planning Policy states that the sequential approach should be used when selecting locations for all retail uses unless the development plan identifies an exception. The sequential approach requires that locations are considered in the following order: town centre, edge-of-town centre and out-of-centre locations that are or can be made easily accessible by a choice of transport modes. Where development proposals in edge-of-town centre or out-of-centre locations are not consistent with the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing centres is acceptable. Out-of-centre locations should only be considered when all town centre and edge-of-town centre options have been assessed and discounted as unsuitable or unavailable, development of the scale proposed is appropriate and there will be no significant adverse effect on the vitality and viability of existing centres. All retail developments should be accessible by walking, cycling and public transport.

Policy E17 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 states that in assessing applications for retailing development the Council will seek to support and enhance the role of town centres. Town centre locations will be preferred to edge-of-centre locations, which, in turn, will be preferred to out-of-centre locations. An out-of-centre location will only be considered favourably if there is no suitable site available in a town centre or edge-of-centre location. Policy E18 states that out-of-centre retail developments will be assessed against a number of criteria, including the impact of the development on the vitality and viability of the town centre, the availability of suitable town centre or edge-of-centre sites, the ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge-of-centre locations, the accessibility of the site and whether the site is vacant, derelict or surplus to requirements. Policy ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 replicates these policies.

Catchment Area

The Retail Assessment submitted with the application defines the primary catchment area for the proposed food store. This includes Jedburgh and extends to the north along the A68 and includes Lanton, Ancrum, Maxton, St Boswells and Newtown St Boswells and extends to the south along the A68 as far as Rochester, Otterburn and West Woodburn. No information has been provided to demonstrate how this catchment area was defined and no map of the catchment area has been submitted,

though requested. In the absence of this information it is considered that the catchment area appears unrealistic and too large. In such cases this would lead to an over-estimate of available expenditure. The proposed catchment area extends north to include Newtown St Boswells and south into Northumberland. There are reservations as to whether a retail unit of this size (2,322 square metres) would be in direct competition with the existing larger stores located in other centres, namely Galashiels, Hawick and Kelso. It is unlikely that the population located in the north of the proposed catchment area in St Boswells and Newtown St Boswells would choose to shop in Jedburgh as a result of this development, in comparison to travelling to larger stores in Galashiels, Kelso and Hawick. The Retail Assessment also fails to take into account the competing catchment areas, for example Kelso; Jedburgh was included in the catchment areas to justify other relatively recent supermarket proposals in Kelso and Hawick.

The information provided in the Retail Assessment is based on assumptions rather than direct evidence as there is no named end user and any inaccuracies in the catchment boundary have the potential to result in a reduction in the overall convenience expenditure figure for the catchment area. This would have the potential to impact upon the figures for trade draw, trade diversion and turnover of existing stores.

Existing Shopping Provision

The applicant's Retail Assessment includes a review of existing shopping provision. This states that the Co-op supermarket is the main food store and there is a smaller Co-op in Canongate and other smaller independent convenience goods shops. Outwith Jedburgh there is a Co-op in St Boswells, Asda and Tesco in Galashiels, Morrison's and Sainsbury's in Hawick and Sainsbury's in Kelso.

The Retail Assessment indicates that there were 8 vacant shops in High Street and Canongate in October 2011. The Council's Retail Survey undertaken in winter 2012 shows that there were 94 retail units in Jedburgh of which 10 were vacant (an 11% vacancy rate). The risk of the proposal causing increased vacancy beyond these levels is significant, which in turn, has implications for the viability and vitality of the town centre more generally.

Quantative and Qualitative Need

The Retail Assessment has not provided a detailed assessment of quantative or qualitative need for the proposed store and no information or data has been submitted to back up the assumptions within the Retail Statement.

In terms of quantative need, the Retail Statement estimates that the population of the primary catchment area would be 22,800 in 2009 but no data is provided on retail expenditure in the catchment area, estimated total turnover on convenience goods in the catchment, the retention level of convenience goods expenditure currently and with the proposed store operating. An accurate assessment on the quantative need for this store is therefore not possible.

The Retail Statement states that qualitative need is concerned with consumer choice in terms of ensuring a suitable range of sites and choices that meet the needs of the local community. It states that given the lack of choice to residents there is a strong qualitative need for a new food store in Jedburgh and there is a deficiency in convenience goods stores and main shopping provision within the catchment area which is evident by the leakage of trade from the catchment area to larger stores in

Galashiels, Hawick and Kelso. The Co-op is used for top-up shopping rather than as a main food outlet.

The assertions made in the Retail Assessment that the proposal will meet quantitative deficiencies in shopping provision within the Jedburgh area and would be sufficiently large enough to compete with the existing and proposed stores located within competing centres of Galashiels, Hawick and Kelso are open to question. The proposed store is 2,322 square metres with 1,625 square metres of net sales area in comparison to the larger existing stores such as Sainsbury in Hawick (3,437 square metres) and in Kelso (4,500 square metres). It is highly questionable whether the proposed store would be comparable to those in the above centres and would compete across the entire catchment area with the larger stores located in other centres.

Similarly, the Retail Assessment statement that 75% of the store's turnover would be from trade clawed back from leakage and it would meet the deficiency in food shopping within Jedburgh seems, at best, doubtful. Given the size of the proposed store in comparison to existing competing stores within other centres, it remains questionable the extent to which the proposed store would provide direct competition to these larger stores. The proposed store would be smaller than the food stores in Galashiels, Hawick and Kelso and it is considered that the development would not represent a comparable offer to those in other centres and the predicted 75% of its trade from clawback is considered to be overly high and unlikely to be achieved. No data or evidence is provided to demonstrate how this percentage has been arrived at. The proposed store would in fact be more comparable with the existing Co-op stores within Jedburgh, competing directly with them.

The Retail Assessment states that the Co-op store in Jedburgh is over-trading for a store of this size, however, no figures are provided of this turnover or of the average turnover of a store of a comparable size. The store located within High Street Jedburgh is a relatively large store and therefore it is not unrealistic that the sales figures are higher than the average.

Overall, it is questionable as to whether the proposed store would be comparable, given its size, with supermarkets located within other centres or whether it would be more comparable with, and therefore likely to be in direct competition to, the existing Co-op stores within Jedburgh.

As no end user has been specified, the Retail Assessment is based upon assumptions without any direct evidence. There are continued assertions in respect of catchment area and trade draw with no evidence base. Small changes to the assumptions in relation to predicted share of trade draw has the potential to significantly impact upon the trade diversion and ultimately the impact upon the total turnover of existing stores. The development has the potential to impact upon the trade diversion and turnover of the existing stores (including the Co-op on the High Street, Jedburgh), given that the trade draw will have to be accounted for elsewhere.

Sequential Site Assessment

Policy E17 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 states that town centre locations will be preferred to edge-of-centre locations, which, in turn, will be preferred to out-of-centre locations for retail developments. An out-of-centre location will only be considered favourably if there is no suitable site available in a town centre or edge-of-centre location.

The Retail Statement advises that there are two possible sites capable of accommodating a store of this size within the town centre. The first is at the junction of the Pleasance and Bridge Street and identified in the Local Plan for redevelopment (RJEDB001). This would accommodate the store but car parking provision would be less than required. The site is occupied by a number of buildings, including the fire station, which would need to be relocated. This site is unsuitable and unavailable for the proposed development. The second site is the Canongate car park. This is centrally located and large enough to accommodate the store and a small amount of car parking. It would be unacceptable and unrealistic to lose such a significant site and so is unsuitable. The Statement concludes that the sequential site assessment has proved there are no available suitable sites within the town centre or edge-of-town centre capable of accommodating the proposed development.

It is considered that the information submitted to date for this application does not constitute a full sequential test of the settlement. It is accepted that the Canongate car park is not large enough to accommodate a store of the size proposed. However, the Anna (site RJEDB001) is a 0.4 hectare site allocated for redevelopment in the Scottish Borders Consolidated Local Plan Adopted 2011. The Local Plan states that commercial and retail uses would be viewed more favourably than residential development. This site is within the town centre, as defined in the Local Plan, allowing for linked trips to the High Street. Although there may be flooding issues associated with this site, it is in a town centre location, the preferred location for retail developments. This site would be sequentially preferable and requires further consideration. In line with the Scottish Planning Policy, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing centres is acceptable, and not for the Planning Authority to propose alternatives.

In this particular case, because the proposal is on a site specifically protected from retail development by policy ED1, the outcome of the sequential test is only relevant in so far as it might identify other alternative sites for retail development. The potential of any town centre sites for retail development must be fully assessed before any edge-of-centre or out-of-centre sites are considered.

Impact on Jedburgh Town Centre

The Council's Retail Survey 2012 highlights the need to protect town centres from inappropriate out-of-centre retail developments. Although the applicant's Retail Statement claims that 75% of the proposed store's trade would be from clawback and 10% from visitor spending, the remaining 15% would be drawn from trade diversion in the catchment area, calculated as 12% from the Co-op and 3% from other shops in Jedburgh town centre (though no figures or evidence have been submitted to justify these claims). This would obviously have significant implications for the smaller retailers in Jedburgh and their ability to survive, particularly if the level of predicted clawback is not achieved.

The main impact of this proposal would clearly be on the Co-op as a store of the size proposed would compete mainly with the existing supermarket in Jedburgh rather than the larger stores in Hawick, Kelso and Galashiels. However, this would have implications for High Street shops in Jedburgh. The location of the Co-op store within the town centre allows for linked trips to other shops and services within the town centre which would not be possible in respect of the proposed food store due to its edge-of-town location. Shoppers are more likely to do their shopping in one trip to the proposed supermarket rather than visit the store and then go on to shop in High Street. The location of the proposed store would not encourage linked shopping trips

and so the proposal would not complement the town centre, being so divorced from it.

The application is speculative. It is acknowledged that if Tesco or Asda operate the store, referred to in the Supporting Statement as potential end users, the proposal would result in a greater impact upon the total turnover of existing shops within Jedburgh and the catchment area.

The Jedburgh Traders Association has expressed grave reservations about the impact the proposal would have on the town centre. Their concern is a valid one as it is considered that the proposal would have a detrimental effect on the vitality and viability of the town centre, contrary to policy E17 of the Scottish Borders Consolidated Local Plan Adopted 2011, which seeks to support and enhance the role of the town centre. The impact of the proposal on the vitality and viability of the town centre has not been fully assessed in the Retail Statement.

The Council's Retail Survey Winter 2012 indicates that the vacancy rate for Jedburgh is 11% with the vacancy rate being fairly constant between 2006 and 2012, with the highest in 2009 and 2010 at 13% and the lowest in 2010 and 2011 at 10%. This highlights the need to protect and support the town centre. Since December 2007 a town centre health checklist has been completed for each settlement in conjunction with the Retail Survey to assess the vitality and viability of Border settlements. Due to the current economic downturn vacancy rates will continue to be monitored to highlight areas where associated problems are occurring. It is acknowledged that the impact of the closure of small independent retailers will have a significant impact on many of the smaller settlements.

The Council's Retail Study September 2011 states that in Jedburgh the amount of convenience floorspace appears broadly in balance with the amount of turnover being attracted into the town centre. The high level of vacant units suggests that some conversion of vacant retail floorspace to other uses could be beneficial. A significant amount of convenience spending is exported to Galashiels, despite the travel distance. It concludes that although it would be desirable to reduce leakage from Jedburgh there is not enough spare spending to support a new convenience store in the town.

Design, Landscape and Visual Impacts

Policy G1 of the Local Plan requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

As this is an application for Planning Permission in Principle no details of the design or materials of the proposed development have been submitted and the proposed layout is purely indicative.

The applicant's Supporting Statement states that the application site is a partly disused industrial site with existing buildings in a poor condition, surplus to requirements as they have been unoccupied for a number of years and the proposal would provide regeneration of an unattractive area, enhancing visual amenities at the entrance to Jedburgh. No details of the materials or fenestration are proposed as this would be dependant on the end user but there is an opportunity to introduce materials that are sympathetic to the surroundings and improve energy efficiency.

It is accepted that a food store of the size proposed can be accommodated within the site. The detailed layout, design and materials of the proposal would be submitted at the approval of matters specified in conditions stage and this would ensure that the proposal does not harm the visual amenities of the area. However, there is a vacant building on the site that could be used immediately for employment uses and this would result in a tidying up of the site, whilst the other buildings are occupied by a range of small businesses. The existing unsightly state of the site is not sufficient justification for the erection of a retail store on this site contrary to development plan policies.

The application shows development hard up against the rear of the footpath adjacent to the A68. It should be noted that the Council has undertaken substantial works to improve the attractiveness of the entrance to Jedburgh from the north with substantial new trees and hedging. The proposal would remove these landscaped areas and so a detailed landscape scheme would be required to be submitted with any detailed application for this proposal demonstrating how the site can be suitably screened and landscaped, which may, in turn, have consequences for the extent of parking provision being proposed.

Access and Parking

Policy I1 Structure Plan requires new development to be guided to locations in accordance with the Development Strategy and associated with the strategic public transport network that are well served by a variety of means of transport. Policy I7 states that the Council will support initiatives that facilitate journeys to be made on foot. Policy Inf11 of the Local Plan states that the Council is committed to guiding development to locations which are accessible to existing or proposed bus corridors and train stations and which maximise the opportunities for walking and cycling. Policy I11 of the Structure Plan and policy Inf4 of the Local Plan state that development proposals should provide for car and cycle parking in accordance with the Council's adopted standards.

The Transport Assessment and Supporting Statement submitted with this application rely on the Transport Assessment submitted in respect of the previous application for a food store on this site (application 10/01201/PPP). This was for a smaller site and store with a different access onto the A68 trunk road. No assessment of the current application has been carried out or submitted.

Transport Scotland has advised that the level of detail provided in the Transport Assessment is wholly inadequate to allow them to comment and so they have objected to the application as there is insufficient information to determine the application.

It is considered that in terms of sustainable transport, this location is far from ideal. The site is adjacent to the A68 and so is very accessible by the private car. It is also close to a main bus route through Jedburgh. However the site is situated on the extreme northern edge of the town and is not within easy walking distance for the majority of residents in Jedburgh, especially with heavy shopping. It is some distance from the main residential areas within the town and a store in this location is unlikely to encourage cycling or walking to the site. It is considered that the main mode of transport to this development would be by the private car.

The Roads Planning Service has raised a number of concerns regarding the need for a Transport Assessment, access to the site, site layout, pedestrian access through

the site and the layout of the service area, surface water drainage, the removal of the existing bridge and the erection of a replacement bridge.

No detailed Transport Assessment has been submitted and the proposal for the replacement bridge is outwith the site boundary so does not form part of this application. However, it accepted that the majority of these requirements can be met by planning conditions, should the application be approved, and further details submitted at the approval of matters specified in conditions stage. The proposed replacement bridge and blocking up of the existing access to the caravan park is a concern and requires further consideration. There are no indications of how this will be achieved or whether this is intended to be carried out as part of the development.

However, the topography of the land on the opposite side of the river from the existing public road is such that a suitable access may not be achievable, or will require excessive engineering works, which would be undesirable. As this is outwith the application site and land owned by the applicant this aspect of the proposal may not be practical or achievable. There are also right of access issues, which are private legal matters rather than planning considerations. There is no suggestion that the arrangements have been discussed with the operator of the caravan park or the Council as owner.

Flooding

Structure Plan policy I15 and Local Plan policy G4 refer to developments where there is an identified flood risk. They state that developments will not be permitted if it would be at significant risk of flooding or would materially increase the risk of flooding elsewhere.

The Indicative River & Coastal Flood Map (Scotland) known as the “second generation flood mapping” prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any year. The Jedburgh Flood Study prepared by JBA in May 2006, for this Council, also shows the proposed development to be within the 1 in 200 year inundation outline for the Jed Water with predicted levels varying from 68.75m and 68.12m AOD over the proposed development.

A Flood Risk Assessment has been submitted by the applicant. SEPA advises that the proposed commercial development replaces existing buildings of a similar area and therefore it is likely to have a minimal effect on floodplain storage and conveyance. Based on this, the proposal represents largely a commercial risk to the applicant and is unlikely to materially increase flood risk elsewhere. It is also noted that the proposed development is not an increase in sensitivity of use. The Flood Risk Assessment proposes a finished floor level of 68.65m for the store which would be suitable provided this could be achieved without land raising. All outside areas of the development including car parking and the service yard should also remain at existing ground levels to ensure that the risk of flooding is not increased elsewhere. Any mitigation measures such as land raising would need to be linked to the provision of like-for-like compensatory storage in accordance with Scottish Planning Policy. However, it is unlikely to be feasible at this location as the entire site boundary is within the functional flood plain.

Based on this information SEPA object to this application unless a planning condition is imposed to ensure that there will be no alterations to existing ground levels within the site boundary.

Infrastructure

Policy I14 of the Structure Plan states that developers will be encouraged, where appropriate, to incorporate Sustainable Urban Drainage Systems (SUDS) as part of the proposal. Policy Inf6 of the Local Plan states that surface water management for new development on greenfield and brownfield sites must comply with current best practice on SUDS; development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding and pollution.

The development would be served by a SUDS scheme below the car park, though no details have been submitted. Water supply would be from the Scottish Water mains supply and foul drainage would be to the public sewer.

SEPA object to this application unless a planning condition is imposed requiring two levels of sustainable drainage (SUDS) surface water treatment. SEPA has no objections to the foul water drainage proposals.

Contaminated Land

Policy I18 of the Structure Plan and policy G2 of the Local Plan refer to developments proposed on contaminated sites and the need for site investigations to identify any risks to public health, safety or the environment and remedial proposals.

Environmental Health advises that proposal is for the redevelopment of land which was formerly railway land (sidings). This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. Environmental Health recommend that if planning permission is granted for this development a condition requiring that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

Impact on Amenity

Policy H2 of the Local Plan states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The nearest residential properties are the semi-detached houses (1 - 4 Edinburgh Road) to the south west of the site on the opposite side of the A68. These are approximately 60m from the site boundary separated by the A68 and the Border Meringues premises. It is considered that the impact of the development on the residential amenities of occupiers of these premises would be no worse than the use of the site for industrial purposes.

The camping and caravan park is to the east of the site. It is considered that the proposal would have no greater effect on the amenities of visitors to the camping and caravan park than the industrial use of the application site.

The requirements of Environmental Health regarding air quality, noise levels and delivery times could be controlled by planning conditions.

CONCLUSION

The site is allocated within the Scottish Borders Consolidated Local Plan Adopted 2011 as employment land and policy ED1 applies which states that uses other than Class 4, 5 and 6 (business, industrial and storage and distribution) will be refused and mainstream retail uses will not be allowed. The erection of a retail food store would therefore be contrary to this policy as it would result in the loss of employment land and would set an undesirable precedent for other uses outwith Classes 4, 5 and 6 on safeguarded employment land sites.

The Retail Assessment does not include sufficient information and data to fully assess the proposal. It is considered that the proposed store would not be large enough to compete with larger stores outwith the catchment area and claw back significant levels of leakage of expenditure lost to other centres. It would be more comparable with the existing Co-op store in Jedburgh. As a result it is considered that the proposed store would have a significant detrimental impact on the vitality and viability of Jedburgh town centre as trade would be diverted from the Co-op and town centre shops to the new store; this impact would be worsened if the end user was a major supermarket operator. The location of the proposed store does not encourage linked shopping trips to the shops and services in the town centre due to its edge-of-town location and access to the store would be predominantly by private car. The site is too distant from the main residential areas to encourage walking or cycling.

The Retail Assessment does not constitute a full sequential test of the settlement and other sequentially preferable sites may be preferable and require further consideration. The potential of other town centre and edge-of-centre sites has not been fully assessed.

An adequate Transport Assessment has not been submitted with the application to fully assess the proposal resulting in an objection from Transport Scotland.

Planning Permission in Principle was refused by the Planning and Building Standards Committee for the erection of a food store on this site in October 2011 and February 2012. National and Council policies and material considerations have not changed since those previous refusals to warrant a different recommendation in this case. It is considered that the proposal fails to comply with policies E12, E17 and E18 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policies ED1 and ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 and it is recommended that the application be refused.

RECOMMENDATION BY HEAD OF PLANNING AND REGULATORY SERVICES:

I recommend that the application is refused for the following reason:

1. The proposal is contrary to policy E12 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED1 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the proposal would result in the loss of allocated employment land where only Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are permitted and outright retail activities are not permitted to ensure an adequate supply of employment land is retained and to support existing town centres. This would create an undesirable precedent for other uses outwith Classes 4, 5 and 6 on safeguarded employment land sites.

2. The proposal is contrary to policies E17 and E18 of the Scottish Borders Consolidated Structure Plan 2001 - 2018 and policy ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 in that the site is in an out-of-centre location that would affect the vitality and viability of the town centre and it has not been adequately demonstrated that sequentially this is the most appropriate site for a new food store in Jedburgh.

DRAWING NUMBERS

1913/01 Rev A Site Plan as Proposed
 1913/02 Location Plan as existing

Approved by

Name	Designation	Signature
Brian Frater	Head of Planning and Regulatory Services	

The original version of this report has been signed by the Head of Planning and Regulatory Services and the signed copy has been retained by the Council.

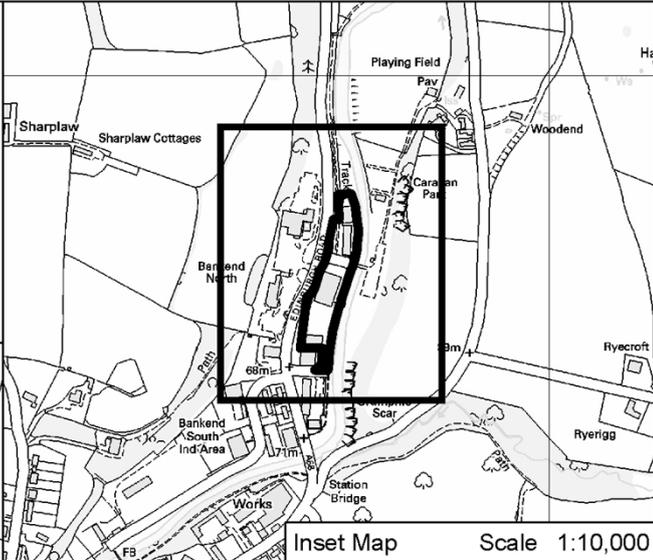
Author(s)

Name	Designation
Julie Hayward	Principal Planning Officer

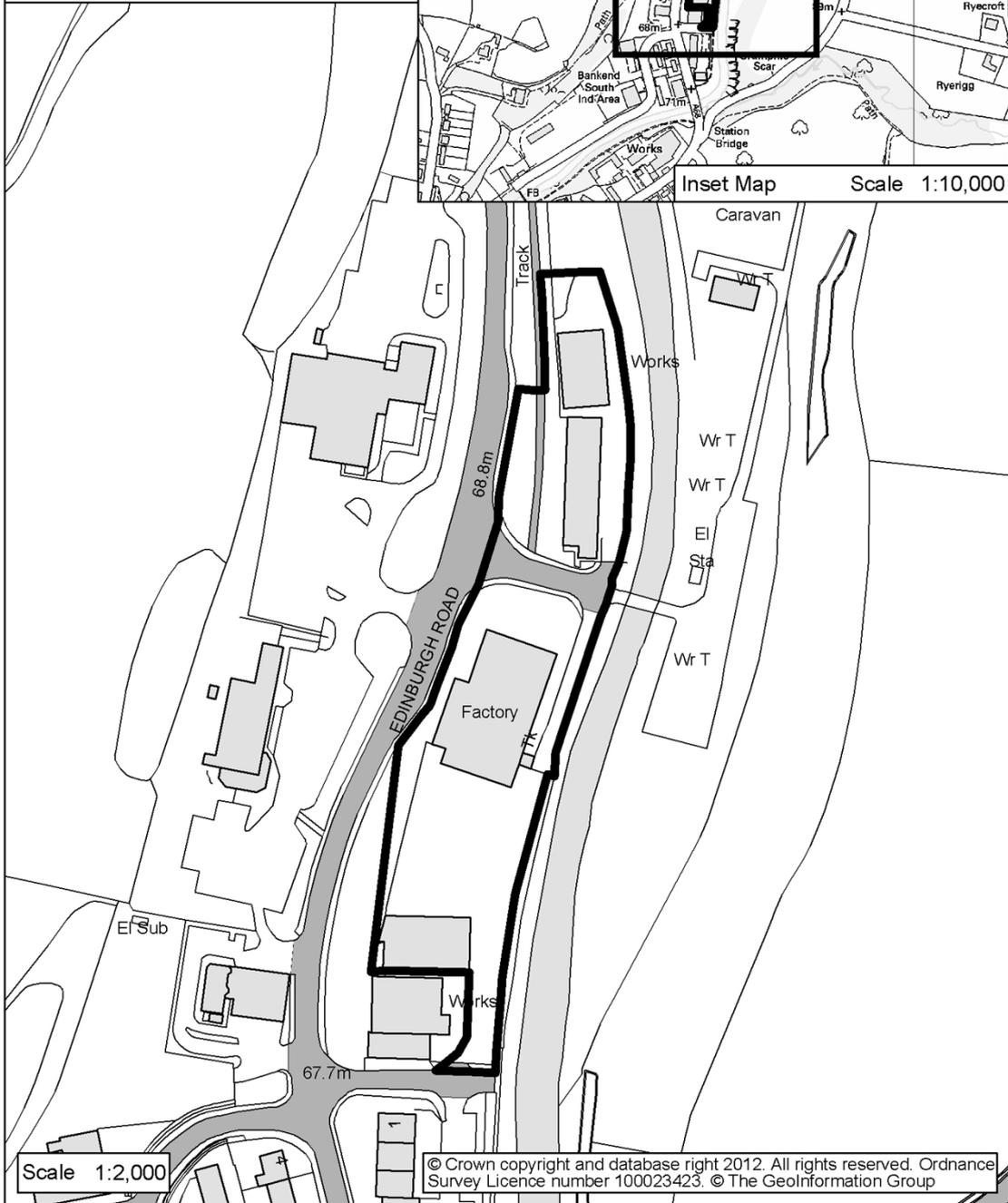
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Former Oregon Timber Frame Ltd
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Inset Map Scale 1:10,000



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