

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

3 FEBRUARY 2014

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 13/01048/FUL
OFFICER:	Deborah Chalmers
WARD:	Jedburgh and District
PROPOSAL:	Change of Use from Class 4-6 (industry/storage) to Class 1 (retail) and alterations to entrance door
SITE:	Land and Building North of Riverside Works, Edinburgh Road, Jedburgh
APPLICANT:	Mark Fisher
AGENT:	Ferguson Planning

The application requires to be determined by the Planning and Building Standards Committee because the proposal is contrary to Policy ED1 and the recommendation is for approval. Under the adopted Scheme of Delegation, a Committee decision is required on applications where a favourable recommendation is made, for a proposal significantly contrary to the Development Plan.

SITE DESCRIPTION

The site is located within an area allocated for 'Safeguarded Employment Land: zEL33' in Jedburgh, as contained within the Consolidated Local Plan 2011. The application site is situated on the northern edge of Jedburgh and to the east of the A68. The site is the northernmost building within allocation 'zEL33', which is currently vacant and last occupied by Border Print and Packaging a number of years ago. The previous use fell within Use Classes 4-6. The overall application site is 0.083ha while the building itself is 293 square metres, with a hard standing area for parking and turning to the north. An overgrown area of land lies beyond the car park, to the east there is a public footpath, trees, Jed Water and Jedburgh Camping and Caravan Park, to the south are other buildings currently in use and on the western side is the A68 with Edinburgh and Jedburgh Woollen Mills beyond. The building includes a pitched roof, door on the north elevation and roller door on the east elevation. Access into the site is to the south beyond a row of buildings within the employment site.

PROPOSED DEVELOPMENT

The proposal is to change the use of the building from Class 4-6 to Class 1 for retail use and alterations to the entrance door. Borders Leisure is a Jedburgh based company and the owners currently have an on-line business and participate in road shows, they currently run the business from their house in Jedburgh. Borders Leisure specialise in caravan and outdoor accessories and have built up an enterprise from attending country/tourism shows. The proposal seeks to sub-divide the existing unit to include a display area for caravan awnings and related camping products which would take up approximately 50% (147 square metres) of the internal space. A further 30% (88 square metres) of the space would be used as a dedicated retail

area for items such as caravan furniture, outdoor equipment, with the remaining 20% (59 square metres) being dedicated to storage/internet sales.

The applicant intends that significant time and investment would go into enhancing the external areas around the boundary of the site and an area cleared for customer and employee car parking. Operationally, the applicant indicates that the estimated total sales will be 60% visiting the unit and 40% internet based.

The alterations to the entrance door include removing the existing fly faced door and widening the opening. A new aluminium glazed door to be fitted measuring 1.8 metres in width on the north elevation. No other changes are proposed to the external appearance of the building or the existing access/parking/turning area. No details of signage have been submitted with the application.

PLANNING HISTORY

The planning history on the site relates to separate proposals and do not directly relate to the current application.

10/01201/PPP: Erection of retail foodstore with associated parking and access infrastructure; Former Oregon Timber Frame Ltd, Station Yard, Jedburgh. (Refused October 2011)

11/01455/PPP: Erection of retail foodstore with associated parking and access infrastructure; Former Oregon Timber Frame Ltd, Station Yard, Jedburgh. (Refused February 2012)

11/01121/PPP: Erection of retail food store with petrol filling station, associated parking and access road; Former Oregon Timber Frame Ltd and Riverside Workshops, Old Station Yard, Edinburgh Road (Refused April 2013)

05/00237/OUT: Demolition of existing buildings and erection of residential care home, Border Print and Packaging Ltd, Edinburgh Road, Jedburgh (Refused April 2005)

REPRESENTATION SUMMARY

No representations have been received.

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.

The first supporting statement was received in September, a further letter was received on the 12th November and further sequential test information was submitted via e-mail on the 5th December. The agent highlights the following within the supporting statement.

The site has been redundant for some time and has achieved no sound interest from Class 4-6 businesses over that time, despite it being widely advertised by local agents. To enable the business to have a physical presence it seeks to invest and take occupancy of a warehouse unit in Jedburgh. When taking into account the proximity of the nearby caravan sites at Lilliardsedge Holiday Park and Jedwater

Caravan Park, it provides the logical reasoning for the location. Those seeking a full range of outdoor leisure products currently have to travel to Galashiels and Berwick.

Borders Leisure seek to take occupancy of the existing building and upgrade it internally in line with their business needs. Borders Leisure is a bulky goods retailer meaning that a large building with relevant access and circulation space is a prerequisite. It would be no different to a number of other businesses in or around the area. The statement highlighted the policy context and examined whether there are any other possible town centre/edge of centre sites.

The second supporting statement highlighted the following points:

The agent states that what is somewhat disappointing is the lack of recognition of the creation of up to 6 new jobs within Jedburgh and the significant economic boost the proposal would bring to the town. The Planning Minister places significant weight and support to development that creates new employment and supports a sustainable economic recovery and thus should be clearly acknowledged when determining local planning applications of this nature. There is more adequate land supply within Jedburgh (e.g. Oxnam Road/Bankhead Industrial Estate) to meet the future demand for the next 20 years (based on the historically uptake) so again flexibility when a new business wishes to locate within a town of Jedburgh should be supported.

The applicant sees the retail sales area as being ancillary to the function of the building and in no way a threat to the Jedburgh town centre. In fact, introducing a business that currently does not exist, will attract new trade into the town which could have knock on benefits for the town centre via linked trips and retention of lost expenditure.

The function of the building is not such that it expects to see a significant intensification to that which has gone before and thus access and parking is considered sufficient.

They do not consider the previous supermarket applications on this site to be of significant relevance to this application. Firstly, each application should be determined on its individual merits and this proposal has no real or significant relationship to what has gone before.

There is a major difference between a supermarket proposal which will predominantly sell convenience food items and a proposal which is to be used for storage/distribution, the display of comparison/bulky goods products and which will have a retail sales area of 88 square metres. Previous applications should not be allowed to cloud opinion on the current proposal which is clearly not a supermarket. To provide comfort on this point the applicant would be willing to be conditioned on the products that could be sold within the unit.

This proposal is not a strategic employment site nor does it prejudice the long term supply of employment land. It has been marketed and continues to lie dormant to no benefit to the local community or economy.

When demand has been proven not to exist and where there is ample further employment land supply we believe it wrong to prohibit or restrict proposals that ultimately will bring inward investment and create employment.

The sequential test analysis found there to be two small vacant units along the High Street. However, the units are not large enough or suitable for the applicants needs.

The last statement on the 5th December addresses the most recent response from the Forward Planning section in respect of the sequential test.

The agent provided reasons as to why the re-development sites (RJEDB001 and RJEDB002) are not suitable as part of the sequential test. Lastly, the agent reiterates that the proposal;

- will not prejudice the long term employment land supply within the area;
- will have significant benefits to the community not least in the form of local employment;
- falls within an area of mixed use and uses that fall beyond just Classes 4-6;
- seeks to regenerate and bring back into use an existing building;
- will respect the character and local amenity in which it is set.

They therefore continue to be of the clear position that there are no sequentially preferable sites available or suitable in Jedburgh for the proposed development and that the subject site provides the most logical position for Borders Leisure being adjacent to the existing Caravan Park.

Flood Risk Assessment

The Flood Risk Assessment details were submitted on the 4th December 2013. The full report is available for Members to view on the Public Access System.

DEVELOPMENT PLAN POLICIES:

Strategic Development Plan 2013:

Policy 2: Supply and Location of Employment Land
Policy 3: Town Centres and Retail
Policy 15: Water and Flooding

Scottish Borders Consolidated Local Plan 2011:

Policy G1: Quality Standards for New Development
Policy G4: Flooding
Policy H3: Land Use Allocations
Policy ED1: Protection of Employment Land
Policy ED3: Shopping Development
Policy H2: Protection of Residential Amenity
Policy Inf4: Parking Provisions and Standards

OTHER PLANNING CONSIDERATIONS:

Scottish Borders Council Retail Study 2012
Scottish Borders Council Retail Bi-Annual Survey (Summer 2013)
Scottish Borders Council Annual Employment Land Audit 2012

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service:

Advised that the proposed parking level is in excess of what they would normally require for this size of property, hence they have no objections to the proposal. As the road serving the site is a trunk road, the comments of Transport Scotland must be sought.

Forward Planning:

Initial Consultation (25th October 2013)

The proposed development is located within 'zEL33' which is allocated for Employment Land Safeguarding (ED1) within the Consolidated Local Plan 2011. There have previously been three planning applications within the same allocated employment site which are of relevance to this proposal and raised similar issues. These applications are: 10/01201/PPP, 11/01121/PPP & 11/01455/PPP. These are outlined within the planning history section.

The above applications were refused on the grounds that they were contrary to Policy ED1 and ED3 of the Consolidated Local Plan 2011. It re-iterated that policy ED1 seeks to avoid the dilution of employment land supply in the Scottish Borders with a view to strengthening the Council's position in this respect. The policy states that there is a presumption in favour of the retention of industrial and business use on strategic and other employment sites, including new land use proposals for employment land. In respect of established or proposed industrial estates, as identified on the Proposals Maps, and other industrial locations, these will be retained for industrial development primarily as set out in Classes 4, 5 and 6.

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 site is high profile and highly accessible and attractive to employment. The loss of employment sites to alternative uses must be avoided; as once the sites are lost they cannot be replaced.

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. The proposal has no benefits for existing local businesses and detrimental effects on the town centre will have negative effects on services for the local community. 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. The predominant land use within the vicinity remains employment and in view of the overall policy, 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.

Policy ED3 seeks to guide new shopping development to town centres and help protect and enhance the vitality and viability of those centres. Policy ED3 requires a sequential test to ensure 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. An out of centre site can only be supported when there is no suitable

site available in a town centre or an edge of centre location. 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.

It is noted that the Planning Statement submitted with the application makes reference to Policy ED3 and the proposals impact upon the town centre. It is noted that the statement says the core products from the proposal are not available within the town centre with only two shops potentially having a marginal similarity in the type of specialised goods. Therefore, the proposal may have a limited impact on existing outlets within the town centre. It states that a significant proportion of the turnover is not available within Jedburgh. It is acknowledged that the proposal would not have the same significant adverse impact on the town centre as the previous three retail proposals. However, the Statement does not constitute a full sequential test of the settlement and other sequentially preferable sites may be suitable and require further consideration. The potential of other town centre and edge of centre sites must be fully assessed before any out of centre sites are approved.

In summary it is considered that the proposal remains contrary to well established Local Plan policies ED1 and ED3 and should be refused.

Re-consultation (3rd December 2013)

It is acknowledged that the scale and operations of this proposal and previous supermarket proposals differ but the principle of them being fundamentally retail facilities remains the issue in terms of Policy ED1, which prevents retail development on allocated employment land, other than 10% floor space ancillary use. It is still contended that the protection of employment land under Policy ED1 remains important and the loss of this land to retail purposes will set an undesirable precedent for other uses such as retail which would result in the further loss of the supply of allocated employment land.

It is noted that the agent states they visited Jedburgh and undertook a survey of the town centre. In terms of the sequential test, have they looked at redevelopment opportunity RJEDB001 which is within the town centre and RJEDB002 which is just outwith the town centre as examples.

Economic Development:

Initial consultation (16th September 2013)

Economic Development raise concerns as this planned change of use, is in contravention of Policy ED1. Concerns are raised regarding the increased activity that would occur with the large floorspace. Concerns were also raised in respect of servicing, turning head and overspill onto the access road.

Despite the comments above, the Officer is conscious of the need for diversification and this use seems suitable due to its location next to an existing caravan site. Should, therefore, a decision be made to agree to this use against policy, it is recommended that proper consideration of vehicle access and turning, acceptable parking provision and vehicle priority exiting the site, be agreed in advance. This may require that additional parking is provided and that the applicants' site boundary be

extended to include more space which is available at the site to be included. This, however, may require a fresh application.

Re-consultation (27th November 2013)

Economic Development appreciate the benefit of creating additional jobs and bringing vacant premises back into use. The flexibility in applying the ED1 policy rests with Development Management and Members. We could support this proposal, subject to strong conditions in the consent to restrict only an element of retail on this specific property, and to only caravan accessories; to avoid a general retail change of use taking place. This should restrict authorised increase in retail sales by any future occupier. We consider that this does not set a precedent and that our support against the normal policy is specific to this site and this operation, adjacent to an existing caravan site.

Despite the roads response, the section still has concerns about access, turning and parking within the area highlighted on the planning application site. There is additional land outwith the boundary and would seek assurance this is available to use as overspill and that the adjacent landowner, has given consent to use of the private access road through this land to what is ultimately a landlocked site.

Flood Protection Officer:

Initial response (15th October 2013)

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 Consulting in May 2006, for this Council, also shows the proposed development area to be within both the 1 in 100 and 1 in 200 year inundation outlines for the Jed Water. This study is based on actual cross sections of the watercourse and is anticipated to be more accurate than the indicative mapping although no warranty is given.

On the basis of the above a Flood Risk Assessment is requested to accurately determine the flood risk to the site. The applicant should be aware that undertaking the FRA may demonstrate that this site is not suitable for development.

Re-Consultation (14th January 2014)

Confirms that they have no objections to the proposed development as the Flood Evacuation Plan and Warning System outlined within the FRA are appropriate for the site and highlights the importance of these in relation to the management and site safety in times of flooding.

Right of Way Officer:

According to records held there is a Core Path on and adjacent to the planning application site. 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. It is also a link path from Jedburgh to New Mill footbridge and linking to Dere Street.

Pedestrian Access to retail outlet

As this proposed development, if given planning permission, is likely to generate traffic and parking locations, it is requested that the routes for pedestrian use are

dedicated to non-vehicular traffic. Non vehicular access to the retail unit will be required for walkers and cyclists for example from the caravan park and paths and pavements from the town centre and nearby retail outlets. Pedestrian routes should be made up to a safe condition and one such route should allow access for pushchairs and less able people and therefore SBC Roads should be consulted. The development has implications for the ability of the public to exercise rights of access along the Core Path 107. 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 any aspect of this change of use.

Riverside Path

A separate defined route away from traffic and parking area should be created. This should be located on the riverside edge of the land included in this application. This route would provide access along the edge of the vehicle access area between the access across the car parking area of the adjoining property and to the main door of the proposed retail outlet. It is reasonable to expect that there will be a need for vehicle and pedestrian access to the adjacent property.

Recommends planning conditions would be attached to any planning consent;

- The path indicated Core Path 107 must be maintained open and free from obstruction in the course of development and in perpetuity and shall not form part of the curtilage of the property.
- A pedestrian route along the entire riverside edge of the property is incorporated into the parking design on the riverside edge of the property.
- No additional stiles, gates, steps or barriers to access may be erected that could deter potential future use.

Environmental Health Officer:

The above application appears to involve the change of use of a property within an area which is already developed. There appears to be a possible historic use of the land as a sawmill and railway land (sidings) within the vicinity of this application. This land use is potentially contaminative and may have resulted in land contamination which could affect the welfare of users, the value of the property, and the liabilities the owner/ occupier may have.

The land is not currently identified as contaminated land and the Council is not aware of any information which indicates the level of risk the potential contamination presents.

The requirement for a full site assessment and potential remediation may not be practical or proportionate given the nature of the application and it is recommended that the applicant is advised of potential land contamination issues by way of an Informative Note.

The historic use of the site as a sawmill and railway land is recorded within a Council database. This database is used to prioritise land for inspection within the Council's Contaminated Land duties. Should the applicant wish to discuss these duties their enquiry should be directed to Environmental Health.

Statutory Consultees:

Transport Scotland: No objections.

Community Council: Support the proposed development being in close proximity to the caravan park and would be of benefit and an asset in that area.

SEPA: No response to date.

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development complies with the Development Plan policies and planning guidance relating to the change of use and whether the material considerations posed by the development outweigh the loss of the unit for “employment” purposes. The key questions for the assessment of the proposal are whether the development:

- Complies with the Development Plan policies on the protection of employment land and retailing development in an out of centre location;
- Would result in any adverse impact upon the vitality and viability of the Jedburgh town centre;
- Would have an unacceptable impact on the neighbouring residential amenity or visual amenities of the wider area;
- Includes satisfactory access, parking and servicing;
- Can be safeguarded from flood risk without creating unmanageable problems elsewhere.

Employment Land Policy

The proposed development must be assessed against Policy 2 of the Strategic Development Plan and Policy ED1, as contained within the Consolidated Local Plan.

Scottish Planning Policy 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 2: Supply and Location of Employment Land, as contained within the Strategic Development Plan states that the SDP supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local Development Plans will support the delivery of the quantity of the established strategic employment land supply. LDP’s should also ensure that this provides a range and choice of marketable sites to meet anticipated requirements.

Policy ED1: Protection of Employment Land, as contained within the Consolidated Local Plan 2011, states that there is a presumption in favour of the retention of industrial and business use on strategic and other employment sites, including new land proposals for employment use. Established industrial estates and other industrial locations will be retained for industrial development primarily as set out in Classes 4,5 and 6. Other uses will be refused unless;

- the loss of employment land does no prejudice the existing and predicted long term requirements for industrial and business land in the locality, and

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

Shops and outright retail activities will not be allowed on any employment land category, the only retailing permissible will be that which is considered to be ancillary to some other acceptable activity (e.g) manufacturing or 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.

Policy H3: Land Use Allocations, as contained within the Consolidated Local Plan 2011 states that any other use allocated sites will be refused unless the developer can demonstrate that;

- it is ancillary to the proposed use and in the case of proposed housing, it still enables the site to be developed in accordance with the indicative capacity;
- there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period;
- the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use; and
- the proposal is otherwise acceptable under the criteria for infill development.

Site Choice

The applicant asserts that there are no suitable town centre or edge of centre locations for such a business (and the robustness of this assertion is assessed below). The applicant is therefore proposing to use a building located within the Safeguarded Employment Site, currently used for Classes 4-6. As stated above, Policy ED1 resists any outright retail development within safeguarded employment sites, which would result in the loss of the employment land supply.

Fundamentally, the issue is that the proposed change of use is contrary to Policy ED1, as contained within the Consolidated Local Plan 2011. Therefore, the Planning Service must assess whether the benefits from the development, outweigh the loss of the employment unit to a retail use.

Consultation Responses

The Local Plans section state that the site is highly accessible and attractive and that the proposed use would not result in significant community benefits which would outweigh the need to retain the site in employment use. Furthermore, that the proposal has no benefit for existing local businesses and detrimental effects on the town centre. There are no known constraints on the site which would prevent this building becoming marketable in the future. The Economic Development Officer

states that the proposal is contrary to Policy ED1, however, could support the proposal subject to strong conditions, restricting the use to only one element of retail within this property, to caravan accessories. They consider that this does not set a precedent and that their support is specific to this site and the operations and use proposed, adjacent to the caravan site.

In strict policy terms, the proposal is contrary to development plan policy in that it results in the loss of allocated and readily available employment land. However, it is an accepted principle that applications should not be refused solely on the grounds that it fails to meet policy criteria unless they also give rise to an identifiable and demonstrable harm. As such, it is also necessary to consider whether there are any material considerations that may determine that the proposal would be acceptable. It is also relevant that, because there are no retail allocations within the development plan, even where a retail justification is established, any such proposal runs the risk of being contrary to one policy or another. In such circumstances, it is correct and proper to balance the effects of the development against each policy, to attach appropriate weight to each and, thereafter, to assess whether the overall impacts and effects of the proposal are acceptable or unacceptable in more general planning terms.

Employment Land Supply

The Scottish Borders (Employment Land Audit 2012) surveys undeveloped employment sites, therefore, this site is not included within the established land supply. The most up to date survey is 2012, which indicates there are 4 sites within Jedburgh which are established land supply, this account for 8.61ha, over 5ha of which is available immediately. The employment land take up rate in Jedburgh has been slow in recent years, with no land taken up between 2008 and 2011 and only 0.2ha taken up in 2012. This does not account for vacant buildings within employment sites. Therefore, it should be noted that the change of use would not impact upon the current established employment land supply within Jedburgh.

Nevertheless, the building exists and is available for use; weight should therefore be attached to the loss of a building that could be occupied immediately and this was a factor in the determination of recent applications. That, in turn, needs to be balanced against the fact that the building has been vacant for a period of years, despite significant periods of marketing. If this were to continue, the building may continue to deteriorate, becoming a less attractive proposition for future investors.

Supermarket Applications (History)

Members will be familiar with the recent applications for supermarket developments on this and adjoining sites which were recently refused on the grounds of loss of employment land and impact upon the town centre, for which neither reason could be mitigated. It is considered that this proposal raises different issues to the previous supermarket applications. The previous planning applications for the supermarkets covered a larger site, including a significant proportion of the allocated safeguarded site, in comparison to the current proposal for 293 square metres. The supermarket would have resulted in the permanent loss of a large section of the safeguarded allocation zEL33. Furthermore, the supermarket would have resulted in a negative impact upon the vitality and viability of the town centre, particularly owing to the fact that the development would have been predominantly engaged in convenience (food) retail sales that are presently met by existing providers in the town centre. Moreover, it was not considered that any benefits of the supermarket outweighed the permanent loss of the employment allocation.

Other material factors

The current application must be assessed on its own merits and balance whether the benefits of the proposal outweigh the loss of the unit for employment use. As discussed above, there remains 8.61ha of undeveloped employment land within Jedburgh and this does not account for the vacant employment building as well. Given the recent slow take up of employment land, it is considered that there is sufficient land supply for the long term requirements of Jedburgh, based on recent figures. It should be noted that the proposal would create 6 jobs and potentially attract visitors to the town from other settlements/local camp sites. This in turn, could have a positive impact for the vitality and viability of the town centre, because the specialist nature of the proposed sales is such that it may draw customers from a wide area, who would then make linked trips to retailers and other attractions in the town. These are not arguments that applied to the proposals for supermarkets.

Sequential Test

The proposed development is for the change of use from Class 4-6 to Class 1, within an allocated employment site, which is an out of centre site. The proposed development must be assessed firstly against Policy 3: Town Centres and Retail, as contained within the Strategic Development Plan and Policy ED3: Shopping Development, as contained within the Consolidated Local Plan 2011.

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. SPP 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. Where development proposals in edge or out of town centres are not consistent with the development plans, 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 3:Town Centres and Retail, as contained within the Strategic Development Plan states that LDPs will;

- a) identify town centres and commercial centres clearly defining their roles;
- b) support and promote the network of centres and identify measures necessary to protect these centres including setting out the criteria to be addressed when assessing development proposals, and
- c) promote a sequential approach to the selection of locations for retail and commercial leisure proposals. Any exceptions identified through LDP's should be fully justified.

Policy ED3: Shopping Development, as contained within the Consolidated Local Plan 2011, states that the aim of the policy is to guide new shopping development to town and village centre, thereby help protect and enhance the vitality and viability of these centres, particularly the defined centres in the larger settlements. 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.

The Council will have regard to the following considerations in assessing any application for out of centre retail development;

- the individual or cumulative impact of the proposed development on the vitality and viability of the existing town centre;
- the viability of a suitable town centre or edge of centre site;
- the ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge of centre locations;
- the impact of the proposal on travel patterns and car usage;
- the accessibility of the site by a choice of means of transport;
- the location of the proposal. Sites will be located within existing settlements and, within them, preference will be given to applications on vacant or derelict sites, or on sites deemed to be surplus to requirements.

Town Centre sites

As per SPP and the Development Plan, the agent has undertaken a sequential test exploring the opportunities available within the town centre and edge of centre sites. Firstly the agent reviewed any vacant premises within the Jedburgh town centre and any sites on the edge of the town, which may be suitable for such a business. The agent identified two vacant units within the town centre, both of which were unsuitable and not large enough to accommodate such a business of this scale. Borders Leisure sells a number of bulky goods, including camping furniture, amongst other smaller items, therefore it would be unable to run efficiently from a small scale premises. The business also has an on-line retail element, therefore 20% of the space would be dedicated to storage and distribution. The display area would make up 50% of the unit, with the remaining 30% being dedicated to retail space. The agent concluded that there are no suitable vacant units within the town centre to meet his clients needs in respect of size and a lack of sites available in edge of town sites.

Redevelopment sites

There are a lack of available sites within the town centre boundary within Jedburgh, with only one site allocated for re-development 'RJEDB001: The Anna', measuring 0.4ha. The Consolidated Local Plan 2011 requires a full flood risk assessment for any development on this site and retail or commercial uses will be viewed more favourably than residential on the site. The applicant offered the following comments in respect of the site;

- The site would involve the purchase of varying pieces of land and this is not viable as not all parts are available for purchase;
- The cost of doing so would be significant and beyond the means of the applicant;
- There are significant unknowns in relation to flooding and mitigation works which again makes which development financially unfeasible;
- There are significant operational constraints in the operation of any development on this site with the neighbouring Fire Station.

Further to a consultation response from the Local Plans section, it was suggested that the proposed re-development site 'RJEDB002: Riverside Mill', measuring 0.2ha, as identified within the proposed Local Development Plan 2013 should be examined. The proposed Local Development Plan 2013 requires a full flood risk assessment to

inform development of the site, suitable access to the site would be determined by the proposed use and would require discussion with the Council's Roads Planning team. The agent offered the following comments on the site:

This site does not fall within the current adopted Local Plan and therefore not a formally adopted re-development site. The agent acknowledges that it is within the proposed plan, however, it falls outwith the town centre boundary. The agent does not consider this site to be edge of centre but out of centre, on the basis of the distance to the town centre and barriers between it and the main shopping street, not least the Jed Water. The agent has stated that case law demonstrates that there is no requirement to test differing out of centre sites. Beyond this, the agent believes that:

- The site falling within multiple ownership is being pursued as a housing development and thus not available;
- The costs of demolishing, remediating the site, addressing any possible flood mitigation and constructing the proposed development would make it financially unfeasible for the applicant;
- Accessibility and servicing of the site would be via narrow and residential streets which give rise to operational and amenity concerns.

It is acknowledged that due to the scale and nature of the business that there are no suitable alternative sites within the town centre which would be suitable for the applicants needs. Furthermore, there is a lack of edge of centre sites within Jedburgh. The two re-development sites have been disregarded by the agent for the reasons above and this is acknowledged. It must be stated that there are no mixed use allocations within Jedburgh to which the applicant could be directed, with only employment allocations on the edge of the town. As such, the applicant has demonstrated a sequential test which examined the town centre, edge of centre and re-development opportunities within Jedburgh.

It is not considered that the proposed development would impact upon the vitality and viability of the town centre. The agent has stated that the core products are not currently available within the town centre, with only two shops identified that may be remotely similar in some good types. Therefore, the business would provide a service which cannot currently be found within Jedburgh. As such, it is not considered that the proposal would result in a negative impact upon the vitality and viability of Jedburgh's town centre. As the proposal would not involve selling convenience goods, it is not considered that a Retail Impact Assessment is required in this instance and that the proposal would not have a negative impact upon the expenditure within the Jedburgh town centre. It is not considered that the business would have any direct competition within the town centre and would likely attract customers from other towns who travel for certain products, including those staying at local camp sites.

The relationship with the adjoining caravan park is also a factor that adds weight to the suitability of the site in terms of site selection.

The site is accessible to members of the public by a variety of means of transport and is sited adjacent to the main road and Core Path. Overall, it is considered that the applicant has looked at other sites within the town, in compliance with Policy ED3 and there are no alternative suitable sites for their needs.

Discussion

Taking the above into consideration, it is considered that there are material factors that outweigh the loss of the unit for employment purposes, at least in the short term. It should be noted that this has taken account of the sequential test, the fact the unit has been marketed for a number of years, current employment sites within Jedburgh, job creation and ultimately the potential for this proposal to draw visitors into the town and contribute to the vitality and viability of Jedburgh.

This application has been assessed on its own merits and specifically relates to using the building for camping accessories by Borders Leisure. This does not set a precedent for similar future proposals. It is not considered that there are any other suitable sites within Jedburgh to accommodate the scale and requirement of the business, given the bulky nature of the goods. There is also some logic to the choice of site given its relationship with the nearby caravan park. Furthermore, taking into consideration the current economic climate, recent slow employment land take up, proposed job creation and the fact that the proposed use would not result in any negative impact upon the town centre, there are arguments in favour of the proposed change of use. If the proposed use is considered acceptable, the re-use of the existing building (even if only on a temporary basis) also becomes a factor, as to leave the building to remain empty is to no-one's advantage. To allow it to be occupied may, in time, make it more attractive for use by other, more conforming businesses, when the economy picks up.

To ensure that the unit is used by Borders Leisure for the purposes stated, the following conditions will be attached to any planning consent;

- Restricting the consent solely to Borders Leisure. This will ensure that should the company cease trading the building reverts back to Use Class 4-6, thus the employment use is not being lost in perpetuity. Any other future Class 1 use would require to be assessed as part of a planning application;
- Restricting the goods to be sold to camping accessories, this ensures that no convenience goods are sold which could have a negative impact upon the vitality and viability of the town centre;
- A time restriction to three years to strike a balance that will allow the business to establish but to allow re-assessment of the position in the future should demands for employment land increase.

Amenity

Policy H2: Protection of Residential Amenity, as contained within the Consolidated Local Plan 2011, states that development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. The site is located within an employment site and there are no residential properties within close proximity of the application site. Furthermore, it is not considered that the proposal would give rise to any impacts upon the visual amenities of the wider area or surrounding land or properties, in compliance with Policy H2.

Parking and turning area

Policy Inf4: Parking Provisions and Standards, as contained within the Consolidated Local Plan 2011, ensures that development proposals incorporate adequate provision for car and cycle parking in accordance with the Council's adopted standards. Although the Economic Development Officer raised concerns regarding the proposed parking and turning area, the Roads Planning Officer did not raise any

concerns. He is satisfied that the existing parking and turning area are sufficient to meet the requirements of the proposal, in compliance with Policy Inf4.

Flooding

Policy 15: Water and Flooding, as contained within the Strategic Development Plan, states that the Local Development Plans will avoid any new development in areas at medium to high flood risk and safeguard areas which will help contribute to reducing overall flood risk. Policy G4: Flooding, as contained within the Consolidated Local Plan 2001, intends to discourage development from taking place in areas which are, or may become subject to flood risk.

Further to a request from the Flood Risk Officer, a Flood Risk Assessment was submitted. The Officer has stated that they have no objections to the proposal, as the Flood Evacuation Plan and Warning System outlined within the FRA are appropriate for the site. An informative will be attached to planning consent to remind the applicant the importance of these measures.

Contaminated Land

Policy G2, as contained within the Consolidated Local Plan 2011, aims to allow development on contaminated or potentially contaminated sites but in a manner that ensures that the re-use and restoration of such sites is made possible without any risk to public health and safety or to the environment. The Environmental Health Officer has advised that the land is not identified as contaminated. However, an informative note will be attached to planning consent to make the applicant aware that there appears to be a possible historic use of the land as a sawmill and railway land.

Rights of Way

The Right of Way Officer has advised raised concerns that the development will have negative implications for the ability of the public to exercise rights of access along Core Path 107. However, given that the proposal is merely concerned with the change of use of the building, it is not considered that the proposal would impact upon the Core Path 107. A condition will be attached to planning consent stating that Core Path 107 must be maintained open and free from obstruction in the course of development and in perpetuity and shall not form part of the curtilage of the property. No additional stiles, gate steps or barriers to access may be erected that could deter the potential future use.

The Officer has requested that a separate defined route away from traffic and parking area should be created along the riverside edge of the land. This would provide access along the edge of the vehicle access area between the access across the car parking area of the adjoining property and to the main door of the proposed retail outlet. The Planning Service take on board the comments of the Officer. However, this application is merely concerned with the change of use to the property and the Roads Planning Service have no raised no concerns regarding the access to the site. It is considered that the public have access to the site from the pavement and in this case the public will be able to gain access to the retail unit and there it is not considered that the proposal requires the formation of a separate path stretching along the riverside.

CONCLUSION

The proposed change of use to a retail unit is considered to be acceptable. The site lies within a safeguarded employment site and is contrary to Policy ED1. However, it is considered that there are mitigating factors that outweigh the loss of the unit to retail use, in that the applicant has demonstrated a sequential test confirming no other suitable sites are available, the proposal will create jobs and will not result in any negative impact upon the vitality and viability of the town centre. Due to the current economic climate, it is considered that there is sufficient land supply with Jedburgh to meet long term demands based on recent take up figures and that the use of this building for a time-limited period will not prejudice the long term suitability and availability of the site for employment use. It is not considered that the proposal will harm the visual amenities or the amenities of neighbouring land and properties. Subject to planning conditions, the proposal is considered acceptable and complies with Policy G1, G4, H3, ED3, H2 and Inf4 of the Consolidated Local Plan 2011.

RECOMMENDATION BY HEAD OF PLANNING AND REGULATORY SERVICES:

I recommend the application is approved subject to the following conditions and approval of the Scottish Ministers.

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. This permission shall exist for the benefit of Borders Leisure only and for no other business.

Reason: This permission is granted exceptionally and only in view of the circumstances and nature of the business.

3. Consent is granted for a limited period of three years from the date of this consent and the approved use shall cease before the expiry of the period unless a planning application to retain the permitted use has been submitted to and approved by the Planning Authority. In the event that no such planning application has been so approved, the use of the premises shall revert to its current lawful use under Classes 4-6 of the Use Class (Scotland) Order 1997.

Reason: To ensure that the proposed use of building does not compromise the long term availability of available employment land in Jedburgh.

4. The goods to be sold from the premises shall be restricted to camping, caravan and associated outdoor accessories. No convenience goods (including food or drink) of any kind shall be sold from the premises.

Reason: To ensure that the goods are related to Borders Leisure and no other goods are sold which may impact upon the vitality and viability of the town centre.

5. The path indicated Core Path 107 must be maintained open and free from obstruction in the course of development and in perpetuity and shall not form part of the curtilage of the property. No stiles, gates, steps or barriers to access may be erected that would deter the potential future use.

Reason: To protect access rights during and after development.

Informatives

1. Be advised that any signage in the future may require Advertisement Consent depending upon the proposed details.
 2. A copy of the consultation response from Environmental Health regarding the potential contamination of the site is attached for the information of the applicant.
 3. The measures contained in the Flood Warning and Evacuation Procedures submitted with this application to be implemented as part of the development. A copy of the consultation response from the Flood Protection Officer is attached for the information of the applicant.
- Reason: To safeguard persons and properties from flooding.

DRAWING NUMBERS

Location Plan
General – 300813/01 (August 2013)

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.

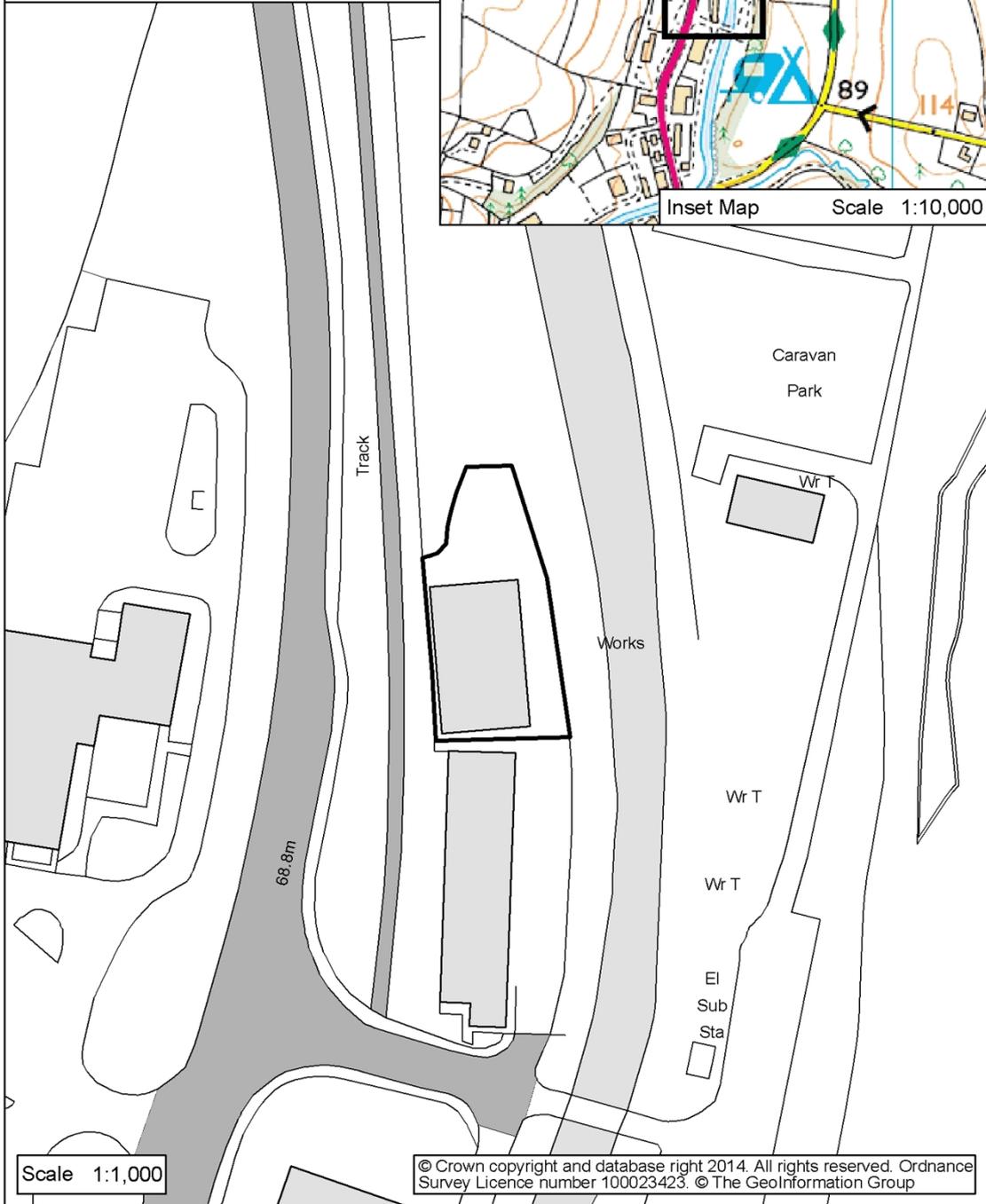
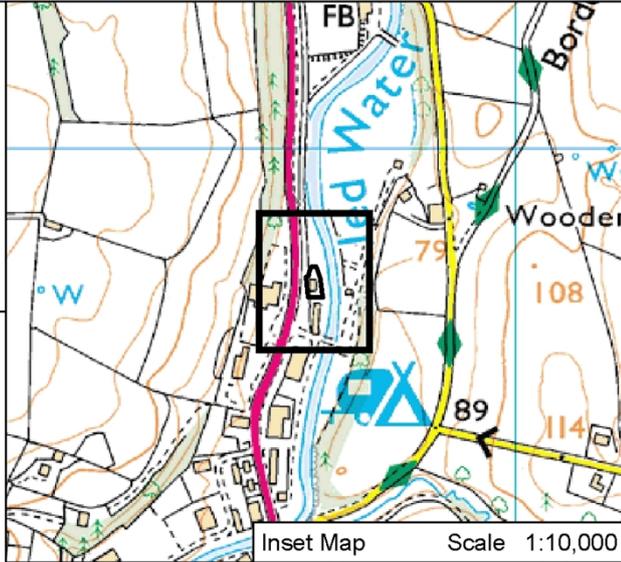
Author(s)

Name	Designation
Deborah Chalmers	Planning Officer

13/01048/FUL



Land And Building
North Of Riverside Works
Edinburgh Road
Jedburgh
Scottish Borders



Scale 1:1,000

© Crown copyright and database right 2014. All rights reserved. Ordnance Survey Licence number 100023423. © The GeoInformation Group