

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

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

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

Local Review Reference: 20/00014/RREF

Planning Application Reference: 20/00283/FUL

Development Proposal: Change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective)

Location: Unit 1B and incorporating land to West of Riverside Works, Edinburgh Road, Jedburgh

Applicant: Mr James Hewit

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	LOC Rev D
Proposed Block Plan	001 Rev H

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 13 July 2020. After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultations; and d) List of Policies, the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

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

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

- Local Development Plan policies: PMD2, ED1, EP1, EP2, EP3, EP13, HD3, IS5, IS7, IS8 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Review Body noted that the proposal was for change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective).

Members firstly considered the principle of the development under Policy ED1. They noted that a previous temporary consent for the use of the land and building had been granted but had now expired and that, at the time of the Case Officer site visit, the premises had been re-occupied by a joinery business under Class 5. The Review Body noted that the premises had been occupied by the permitted use of car sales during the preceding three years without local opposition.

Members noted that the land was allocated as a District industrial and employment site in Policy ED1 in the Local Development Plan and that, whilst Class 4-6 uses were preferred, other uses could be acceptable provided certain criteria were met. Members then considered these criteria and were of the opinion that most were met by the proposal. They felt that the industrial land supply at present in Jedburgh was sufficient and would not currently be prejudiced by loss of the site, there being other land and vacancies available for other users. They also recognised that there were employment benefits to allowing an alternative use of the site and that the use, in itself, would be compatible with other uses in the industrial estate. They were of the opinion that car sales could attract people into Jedburgh with the potential of spin-off trade whilst there. Members also noted that continued Class 4-6 use of the premises was possible even if permission for car sales was granted.

Overall, the Review Body considered that at a time of extreme economic fragility, with general concern at the challenging local economic and employment situation exacerbated by the Covid-19 crisis, there was justification to accept the proposed use when taking into account the criteria in Policy ED1. However, they also recognised that the purpose of Policy ED1 is to preserve long term land supply for industrial and employment land for economic recovery and that their encouragement for the proposed use was influenced by the current short term economic position. There was concern that such allocated land should not be lost in the longer term and that there was no evidence of marketability or lack of demand that would justify a permanent loss of industrial land. The Review Body, therefore, considered a temporary consent to be justified on a five year basis, imposed by condition

Members then considered the issue of landscaping and visual impact under Policy PMD2. They noted that an approved landscaping treatment of the edges of the site had not been carried out during the preceding three years, even though a condition had been imposed seeking its implementation. They considered that it was important to ensure the landscaping was carried out if this consent was granted. Given that the landscaping treatment was modest in scale and largely involved hedging and some shrubs and trees, they saw no reason why it could not be carried out at the outset and before the use was permitted to commence on the site. A suspensive condition was agreed in this regard which would ensure that the landscaping would be carried out as approved.

The Review Body finally considered other material issues relating to the proposal including the building extension, preservation of the Core Path, flooding, contamination and biodiversity but were of the opinion that appropriate conditions could address them satisfactorily. They had no objection to the small building extension being retained in perpetuity, its use reverting to Classes 4-6 should the permitted use not be extended beyond the temporary period.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that temporary consent for the development was consistent with Policies PMD2 and ED1 of the Local Development Plan, subject to the previously approved planting scheme being carried out before the development commences. The development was considered to be an appropriate use to be continued on a temporary basis, providing employment in a challenging economic climate. Consequently, the application was approved.

CONDITIONS

1. Consent is granted for a limited period of five years from the date of this consent and the approved use of the land and building 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. The small building extension shall be retained and shall revert to Class 4-6 use at the end of the aforementioned five year period, unless extension to the permitted use has been allowed.
Reason: To ensure that the proposed use of the building and land do not compromise the long term availability of available employment land in Jedburgh.
2. No development to be commenced until all new planting, as shown on Proposed Block Plan Rev H, is completed, notified to the Planning Authority and completion agreed in writing by them. These landscaping works will be maintained for a period of five years upon planting, during which time, all failed planting shall be replaced. The applicant shall notify the Planning Authority that the approved planting (as per the approved Landscape Plan) is available for inspection after this five year period, at which point, the approved landscaping scheme shall have been implemented and landscaping established in its entirety.
Reason: To ensure effective assimilation of the development to its surroundings.
3. The public path through the site, identified as Core Path 107, must be maintained open and free from obstruction in the course of development and in perpetuity. No stiles, gates, steps or barriers to access may be erected that would deter the potential future use.
Reason: To protect public access rights to this Core Path both during and after development.
4. Details of the position, size, colour, materials and method of illumination of any signage to be displayed on the building, within the site or on the site boundaries to be submitted to and approved in writing by the Planning Authority prior to any signage being displayed. Thereafter the works are to be carried out strictly in accordance with the approved details.

Reason: In accordance with the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1994.

INFORMATIVES

1. The former use of the site is potentially contaminative and may have resulted in land contamination.

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 historic use of the site 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.

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

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

Monday-Friday 0700-1900

Saturday 0800-1300

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

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

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

Notice of Initiation of Development

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

Notice of Completion of Development

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

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

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

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

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

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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

Date.....17 July 2020