

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/00486/FUL

APPLICANT : Mr Stephen Lamb

AGENT : Border Architects Ltd

DEVELOPMENT : Part Change of Use of ground floor to Class 10 and alterations to form additional office space from attic floor

LOCATION: 3 Rowan Court Suite 3
Cavalry Park
Peebles
Scottish Borders
EH45 9BU

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
PA01	Location Plan	Refused
PA02	Proposed Site Plan	Refused
PA03	Existing Plans	Refused
PA04	Existing Elevations	Refused
PA05	Proposed Plans	Refused
PA06	Proposed Plans	Refused
PA07	Proposed Elevations	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations were received.

Consultation responses were received from: Roads - no objection, there is ample parking available; Forward Planning - objection. The proposed class 10 Use as part of this planning application does not conform with the requirements of policy ED1. To support this proposal would set an undesirable precedent and would undermine the council's strong position on business development at this location. It would also result in the loss of valuable ground floor high amenity business land within Peebles which is a scarce resource. The supporting information provided by the applicant provides reason as to why their business is expanding, but it does not confirm why this specific site over any other potential site should be supported for the proposed use. The Forward Planning section would have expected the applicant to have carried out a search for other potential sites / buildings for the proposed use. The application makes reference to proposed additional office space; however it is not additional office space that is proposed but rather replaced office space. o Is this replacement office space to be used by the applicant or will it be available for other businesses to benefit from? If the proposal is for the latter, it is suggested that any business occupying the converted attic space would want a more prominent entrance that confirms their presence at that location, including a suitable pedestrian access from the adjacent carpark. o The application drawings include a kitchen and dining area, the exact

intention of how this space is to be used has not been confirmed. Is this space proposed as a café? and if so, it is assumed this will be for use by the clients of the day centre only as opposed to being open to the public. If it was the case that planning controls could be put in place which could ensure the office element on the upper floor would be implemented, then the proposal could be considered more favourably, i.e. there would remain a net office floor space within the building whilst also ensuring the care unit could operate. However, if this is not able to be controlled then it is not considered the proposal can be supported.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016
PMD2 - Quality standards
PMD3 - Land use allocations
ED1 - Protection of business and industrial land
IS7 - Parking provision and standards

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

The following Scottish Government publication is material:
Planning Circular 4/1998: the use of conditions in planning permissions.

Recommendation by - Ranauld Dods (Planning Officer) on 28th May 2021

Site and proposal

The application site lies within the existing strategic high amenity site in Peebles (Cavalry Park, zEL2). Number 3 Rowan Court is a single storey building within the south western section of the development and is one of 4 similar units in that area. The building presently has approximately 200m square of class 4 office accommodation.

This application is made to change the use of the ground floor to a day centre for the elderly, which would be within class 10 of the use classes order. The plans indicate that one quadrant of the ground floor would be a training area and or conference room. The applicant also proposes the creation of an upper story within the roofspace which is shown as being for office space.

The applicant has submitted a supporting statement and I have had regard to that in my determination.

Site history

The building is part of the second phase of the development and was the subject of application 05/02146/FUL, being granted in December 2005. The proposal under consideration here was the subject of a pre-application enquiry, reference 20/00558/PREAPP, albeit that did not include any class 4 provision. The response given at that stage was that a day centre for the elderly would not be a complementary use for Cavalry Park and, on that basis, support could not be given and that any application submitted should be supported by information detailing any other potential sites / buildings which have been considered for the proposed use.

Design and layout

External changes would be limited, extending to the installation of rooflights and the formation of an additional entrance on the west elevation. Those alterations would not require planning permission. The majority of the changes would be internal and would consist of the formation of an additional floor within the roof space and changes to the partition layout at ground floor. The current floor area of the building is in the order of 255m square and the formation of the upper floor would increase the overall floor area by almost 180m square, or a 70% increase in gross floor space. Of that, only 142m square would be office space. Being within the roofspace, that space created would have considerable ceiling coombes and the usable floorspace would be less than that.

The use of the ground floor would be changed from class 4 (business) to class 10 (non-residential institutions). The submitted plan shows three zones, labelled as: "zone 1" to include dining and kitchen areas; "zone 2" which would be a training / conference area and; "zone 3", labelled as a "care hub". Also on the ground floor would be therapy, staff and quiet rooms along with toilet and shower facilities.

Principle

The key policies against which the proposal would be assessed are ED1 and PMD3 of the LDP.

Policy ED1 states, amongst other things:

The council rigorously protects strategic business and industrial sites for employment uses.

a) Strategic High Amenity Sites

Development on Strategic High Amenity Sites will be predominantly for class 4 use. Other complementary commercial activity e.g. offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location. The use as a day centre for the elderly is not one which would be complementary nor would it enhance the wider Cavalry Park site. There are pressures to find new business and industrial land within the Tweeddale area. The development of a class 10 use at this location, would lead ultimately to the loss of allocated business and industrial land when there is known pressure for business and industrial land and introduce a use that is not a complementary neighbour to business uses.

Forward Planning advises that the council carries out an annual Employment Land Audit (ALE), the purpose of which is to monitor business / industrial land take-up across the Scottish Borders. This helps the council ensure it has a sufficient land supply within the LDP. The most recent ALE was in spring of 2019 and identified that there is no immediately available employment land in Peebles with 0.7ha available employment land between 1-5 years. Forward Planning does not consider this is sufficient land to meet the anticipated demand. Consequently it is vital that existing employment land supply is retained and further land is allocated for this purpose. The protection of the application site for business uses and the identification of further employment land at Eshiels has been taken forward into the proposed new Local Development Plan. The development of a class 10 use at this location, would ultimately lead to the loss of ground floor allocated business and industrial land and the proposal would therefore be contrary to policy. I have no reason to question that assessment.

Policy PMD3 states, amongst other things:

Any other use on allocated sites will be refused unless the developer can demonstrate that:

- a) it is ancillary to the proposed use;
- b) 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;
- c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use.

Considering the above, the proposed change of use to a day centre for the elderly would be neither ancillary nor complementary to the wider Cavalry Park site. There are no known constraints on the site which would prevent the building's continued use as class 4. There may be some community benefits but those are not significant enough to outweigh the need to maintain the existing use. In addition, the applicant has failed to provide evidence that there are not any other potential sites / buildings which have been considered for the proposed use.

It should also be noted that, although the plans indicate that "zone 2" would be retained as class 4 use, the physical separation from the rear entrance and upper floor, combined with the newly formed internal links between the proposed class 10 use and the area marked as "zone 2 - training - conference", make it clear that the area would at best be ancillary office space associated with the applicant's business rather than two separate units. It is acknowledged that the proposal includes the provision of class 4 floor space within the roofspace. However, as noted by Forward Planning, this is replacement rather than additional floor space. In addition, first floor office space is less attractive than ground floor accommodation and, combined with the significant ceiling voids, the office space proposed in this application is likely to be even less desirable. In their consultation response Forward Planning indicated that a more favourable consideration could be given if it were possible to ensure the upper floor element could be implemented. Whilst a condition could be imposed requiring the actual provision of the office space within the roofspace, that could be retained by the applicant as ancillary office space or it could simply be formed with the provision of partitions and left unoccupied. The success of such space will depend a lot on its marketing and terms of occupancy. It would not be possible, nor appropriate, for the planning authority to attempt to regulate the marketing and occupancy of business space to benefit a use that is not, itself, complementary to the business park. The replacement accommodation would evidently be inferior to the existing ground floor accommodation, and I do not consider it in the interests of the business park to provide a Class 10 on the ground floor and thus

relegate office accommodation to the first floor. It is considered, in any case, likely that a condition that would involve regulation of the marketing and occupancy of the first floor accommodation would potentially unenforceable and would not be compliant with the requirements set out in Planning Circular 4/1998: the use of conditions in planning permissions. I do not consider the proposal would be adequately mitigated by a planning condition as a result.

Taking the above into consideration, the proposal would be contrary to policies ED1 and PMD3 and support cannot be given to the application.

Visual impact

The changes proposed to the exterior of the building would not be detrimental to visual amenity or to the character of Cavalry Park.

Roads issues

Roads assessed the application and considered that there is sufficient parking available within the area. I have no reason to question that assessment.

Services

No changes are proposed to the current water and foul drainage provision. Provision for waste and recycling facilities exist on the site.

Conclusion

The proposed use would not be a commercial activity that would be either ancillary or complementary to the Cavalry Park Strategic High Amenity Site. The change of use would lead ultimately to the loss of allocated business and industrial land when there is known pressure for such sites and the provision of potentially less attractive office accommodation in its place. The applicant has failed to demonstrate that there are not any other potential sites / buildings which have been considered for the proposed use and has not demonstrated clearly that the proposal would enhance the quality of the business park as an employment location.

REASON FOR DECISION :

The proposed use would not be a commercial activity that would be either ancillary or complementary to the Cavalry Park Strategic High Amenity Site. The change of use would lead ultimately to the loss of allocated business and industrial land when there is known pressure for such sites and the provision of potentially less attractive office accommodation in its place. The applicant has failed to demonstrate that there are not any other potential sites / buildings which have been considered for the proposed use and has not demonstrated clearly that the proposal would enhance the quality of the business park as an employment location.

The development would be contrary to policy ED1 of the Local Development Plan 2016 in that the use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes)(Scotland) Order 1997) would not be a commercial activity that would be complementary to the Cavalry Park Strategic High Amenity Site. This conflict with the development plan is not overridden by other material considerations.

The development would be contrary to policy PMD3 of the Local Development Plan 2016 in that use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes)(Scotland) Order 1997) would be a neither ancillary nor complementary to the Cavalry Park Strategic High Amenity Site. This conflict with the development plan is not overridden by other material considerations.

Recommendation: Refused

- 1 The development would be contrary to policies ED1 and PMD3 of the Local Development Plan 2016 in that the use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes)(Scotland) Order 1997) would not be a commercial activity that would be complementary or ancillary to the Cavalry Park Strategic High Amenity Site and would result in the loss of high quality office accommodation and its replacement with potentially less attractive accommodation. This would not serve to protect the business park adequately for employment

purposes. This conflict with the Development Plan is not overridden by other material considerations.

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