

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/00836/FUL

APPLICANT : Mr Gordon Bain

AGENT : Jim Hopkins

DEVELOPMENT : Siting of mobile catering truck and alterations to existing access

LOCATION: Land At Station Yard
Traquair Road
Innerleithen
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
01.19.05 rev 0	Location Plan	Refused
02.19.05 rev 0	Photos	Refused

NUMBER OF REPRESENTATIONS: 9

SUMMARY OF REPRESENTATIONS:

Objections submitted with respect to the application raise the key issues summarised below. Full comments are available on Public Access and all material considerations within them have been accounted for in the assessment. The principal concerns raised are:

- o Proximity to cemetery is inappropriate, disrespectful, abhorrent and will cause distress
- o On an industrial site surrounded by residential properties
- o Noise impacts
- o Road safety, traffic congestion and emergency access. The opposite car park shouldn't be considered as it may not happen, and it has not been well used when previously provided
- o Security concerns
- o Odours and vehicle fumes
- o Not in keeping
- o No evidence of demand
- o Litter
- o Carbon emissions

Consultations

Roads Planning Service: In principle the RPS has no objections, however, they require the following matters to be addressed

- o Details of the proposed access to the development site would have to be agreed and the works implemented prior to trading commencing

o Details of the proposed alterations to the field on the opposite side of Traquair Road to accommodate parking should also be included, as grass parking would not be supported due to the soft nature of the ground and the potential for mud being dragged onto the road.

A planning condition is proposed to cover the above issues. It should be noted that the proposed catering facility can be serviced by on-street parking along Traquair Road and separate parking would not be a prerequisite for this proposal. Parking associated with this type of business is generally short term and whilst there will be peak times, the RPS would not insist on dedicated parking.

Community Council: No reply

Environmental Health Service: To ensure existing amenity is not negatively impacted at nearby residential dwellings, they require further information regarding the proposed extraction system concerned with the dispersal of kitchen effluvia. Concerns regarding any impact due to noise associated with this proposal could be dealt with via a condition limiting hours of use to the day time period.

Flood Protection Officer: SEPA mapping indicates that the site is at risk from either a fluvial or pluvial flood event with a return period of 1 in 200 years. The Innerleithen Flood Study demonstrates that the proposed development lies within 1 in 200 year (0.5%) inundation outlines for the Leithen Water. The anticipated flood depths for a 1:200 year event are 0.25m. Additionally, surface water flooding up to 0.3m can also be expected during a 1:200 year event. The maps also indicate that the site lies in a flow path of the Leithen Water. The FPO requires that the catering truck be moved from the site during times of flood warnings. This is to prevent the truck being washed away during a flood event and causing damage to buildings or roads.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2, PMD3, HD3, IS7, IS8, IS9, ED1, ED3, EP16

SPG Waste Management 2015

Recommendation by - Carlos Clarke (Lead Planning Officer) on 26th July 2021

Site and application

This application seeks consent to use an area of land within the curtilage of a commercial building for the siting of a catering truck. Also proposed are a demountable fence and two pedestrian accesses onto Traquair Road. Reference is made to a parking area on the opposite site of Traquair Road though this does not form part of the application.

The site comprises a level grassed area alongside a storage building to its south-easterly side, bound by Traquair Road to the south west; the boundaries of residential properties to its north-west and north-east; and commercial property to the north.

Principle

The site is within the curtilage of a commercial building, located within a District employment land site safeguarded by Policy ED1 of the Local Development Plan 2016. The demountable fence proposed is designed to ensure no conflict with the existing commercial use. The truck itself would take up comparatively little room within the curtilage of the commercial building. However, this proposal would effectively result in sterilisation of the entire site, since it comprises a much larger area to allow the truck to be sited in different positions in order to protect the grass. This proposed use is contrary to Policy ED1 which seeks to safeguard employment land for industrial and storage uses. It would make the entire site available only to the catering truck, the purpose for which is unrelated to the employment land site. The development would not provide overriding benefits and, though the site has its constraints in terms of size, flood risk, and proximity to residential property, these constraints do not amount to justification to make the site only available for a catering truck. Surrounding uses do not justify this diversion from the established employment uses.

Though this type of use would tend to be given a temporary consent usually of three years (given it would be carried out in a vehicle, and not a permanent building), accepting this proposal would establish the principle that the site does not merit safeguarding for the benefit of the employment land allocation. My interpretation is that the site does merit safeguarding, and to permit this use, which would not be ancillary to the existing employment use, would be contrary to Policies ED1 and PMD3 as a result

Furthermore, the catering truck is designed to target customers such as mountain bikers, road cyclists and their family/supporters, and the proposal has been developed following local residents concerns regarding congestion in Innerleithen High Street. The proposal may well divert activity from the town centre, relieving congestion. On the other hand, that would not be to the benefit of trade within the town centre. While it is not necessary for an application to demonstrate a demand exists, the fact the proposal is designed to divert trade from the town centre is fundamentally in conflict with the principal purpose of ED3 which is designed to safeguard town centres. There is no evidence the road safety benefits in themselves would justify this location being used for this purpose. Albeit the impact will be relatively small, incremental impacts on the town centre can have adverse consequences for its viability and vitality. The locational justification is limited, and not sufficient to override the objective of Policy ED3.

Flood Risk

As noted above, the Flood Protection Officer requires the truck be moved during high flood warnings. Though this could be covered by condition, it would require active management to ensure flood warnings are acted on sufficiently so, though not in conflict with IS8 in itself, this does add to concerns over the suitability of this site.

Visual impact

Parking a truck does not require Planning Permission. It is the catering use that requires PP. A truck, in any case, would not be out of character with an industrial estate in itself, albeit the activity associated with it may be visually somewhat at odds. Its siting on the grassed area may also render it somewhat incongruous. However, ultimately, the visual impact of a catering truck in this setting is not considered to be an overriding concern.

A demountable timber fence, for which no details have been provided, will be visible from the public road. However, if of suitable height relative to the existing railings, its visual impact will not be unacceptable. A condition could secure details

The access proposals comprise alterations to an existing opening, and a new opening formed in the wall/railings alongside Traquair Road. If of suitable height and design, these proposals will not be visually consequential.

Access and road safety

No dedicated parking is proposed, just two pedestrian accesses. The Roads Planning Service are, however, content with the arrangement. The fact reference is made to parking on the other side of the road does not change the RPS's view that a catering truck in this location will not require dedicated off-street parking. I would add that emergency access/fire risk assessment is a matter for the applicant and not this planning application.

The road worthiness of the vehicle is not a planning issue.

Neighbouring amenity

Vehicle fumes (and associated carbon emissions) is not a planning issue in itself, given the parking and driving of the truck does not require PP. As noted above, it is the catering use of the vehicle that amounts to the material change in the use of the land on which it is situated that requires PP.

Though a vehicle can be parked within their site wherever the owner of the property chooses without requiring P, that is not to say it would be appropriate for consent for the catering use to allow unrestricted siting directly outside a neighbouring residential property, such as Station Cottage to the north-west of the site. A truck of this size could have considerable visual impacts depending on proximity and the applicant's

proposal to make the whole site available for siting the truck in order to protect the grass is a concern as regards exactly where it would be sited on any given occasion. If approved, therefore, some form of buffer would best be established by a condition of consent to maintain a reasonable distance between the truck and neighbouring residential property.

The proposed use could result in noise from the comings and goings and general activity of customers; noise from equipment; and potential odour from the cooking operation, all of which could pose a serious risk to neighbouring amenity, particularly that of Station Cottage alongside which one of the pedestrian accesses is proposed. The proposal does not include a generator, however, and controls could be applied by planning condition to limit operating hours; control the precise positioning and orientation of the truck; and require further information to establish that odour will not be a concern from cooking facilities.

However, the principle of siting a catering truck within this area is still a concern given the potential risk of adverse impact on neighbouring amenity from the comings and goings and congregation of customers, activity which would be out of character with this particular site. This would be particularly the case with the adjacent residential property, though there are also clear concerns expressed by the local community regarding the potential for conflict with the nearby cemetery, a use that can be, when services are held, extremely sensitive to even low and discrete levels of commercial activity. While the cemetery is offset so reducing potential impacts, the prospect of impact on residential property is a sufficient concern in itself to suggest this is an inappropriate site for the proposed purpose. I do not consider the proposal would be well placed to ensure compliance with Policy PMD3.

While security may be a concern for neighbouring residents, this proposal is unlikely to lead to particular risk in this regard, given the proposal would be a daytime activity in any case.

Services

No water supply, foul or surface water drainage services are required. It is not for this application process to require such a use be provided with public toilets

Litter

If granted, a planning condition could secure provision for bin provision and maintenance of the site (likely dovetailing with any licensing requirements that may be applied in that regard).

REASON FOR DECISION :

The proposed development would be contrary to Policies PMD3, ED1 and ED3 of the Local Development Plan 2016 in that it would comprise the loss of employment land during the period of consent for the catering truck, thus prejudicing the availability of business and industrial land within the allocated employment land site. Furthermore, it would likely divert trade from the allocated town centre, thus undermining its vitality and viability. The resulting impacts would potentially have adverse economic implications, and these would not be sufficiently overcome by any other material considerations.

The proposed development would be contrary to Policy HD3 of the Local Development Plan 2016 in that the comings and goings and congregation of customers would potentially undermine the amenity of neighbouring property. The resulting impact would have potentially significant amenity implications, and these would not be sufficiently overcome by any other material considerations.

Recommendation: Refused

- 1 The proposed development would be contrary to Policies PMD3, ED1 and ED3 of the Local Development Plan 2016 in that it would comprise the loss of employment land during the period of consent for the catering truck, thus prejudicing the availability of business and industrial land within the allocated employment land site. Furthermore, it would likely divert trade from the allocated town centre, thus undermining its vitality and viability. The resulting impacts would potentially have

adverse economic implications, and these would not be sufficiently overcome by any other material considerations.

- 2 The proposed development would be contrary to Policy HD3 of the Local Development Plan 2016 in that the comings and goings and congregation of customers would potentially undermine the amenity of neighbouring property. The resulting impact would have potentially significant amenity implications, and these would not be sufficiently overcome by any 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”.