

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**7 MARCH 2022**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 21/01851/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Leaderdale/Melrose
<b>PROPOSAL:</b>	Erection of Class 1 retail store and 5 no. units (Class 5 and Class 6) with associated car parking, servicing and access
<b>SITE:</b>	Land At Tweedbank Industrial Estate, Tweedbank
<b>APPLICANT:</b>	Manor Place Developments/Lidl GB
<b>AGENT:</b>	Pritchett Planning Consultancy

**PLANNING PROCESSING AGREEMENT:**

A Planning Processing Agreement is in place until 28<sup>th</sup> March.

**SITE DESCRIPTION**

The site comprises an area of 1.33 hectares located at the far easterly end of Tweedbank, within Tweedbank Industrial Estate. The A6091 road is located to the south, Tweedbank Drive to the east, and estate roads to the north and west. The site flanks existing buildings to its north and west. It is previously undeveloped land, though is sited alongside and overlaps a consented development for a hotel (now no longer proposed, as noted below); petrol filling station, shop and drive thru restaurant, work on which has recently commenced. The site was previously framed on its south and easterly sides by trees, though the majority were removed under the previous consent.

**PROPOSED DEVELOPMENT**

This application seeks full Planning Permission for the development of a supermarket with a gross floor area of 1995 sq metres, and a block of Class 5 and 6 business units of 1100 sq metres. The application also proposes 121 parking spaces. The site would be accessed from Tweedbank Drive via a road and roundabout network and junction approved under a previous planning consent 18/01520/FUL (described below), and from the existing estate road to the north-west. The supermarket would be sited west of the petrol filling station approved under 18/01520/FUL, and alongside existing industrial units to the west and north. The business units would be sited adjacent Tweedbank Drive, immediately north-west of the approved drive-thru restaurant.

**PLANNING HISTORY**

An application was submitted in 2006 in this area for a retail unit by B & Q with associated access and car parking (06/01710/FUL). The application was subsequently withdrawn in 2010.

Planning Permission was granted in September 2019 under 18/01520/FUL for a mixed use development including Hotel, Class 3 restaurant with drive thru facility, petrol filling

station with shop, associated access, car parking, servicing, landscaping and other engineering operations. Prior to that application being determined, a proposed supermarket was withdrawn. This is the site now on which the proposed supermarket is again proposed, albeit of slightly smaller size. Also, the hotel is now not being progressed, and the business units proposed here would be located on the site approved for the hotel.

## **REPRESENTATION SUMMARY**

94 representations in support have been received, and one letter of objection. All are available to view on *Public Access* and a summary of the main points raised is noted below:

### Supporting comments

- Local jobs
- Saving on food bills, with value for money shopping
- Cutting need to travel to Hawick, Kelso, Galashiels or Melrose
- Reduced carbon footprint from reduced travel, reduced congestion in Galashiels and people will be able to walk to it, with access provided for all customers
- Tweedbank is large, growing, and needs services such as this which is long overdue
- This would be a huge asset to Tweedbank. Tweedbank is in the 'dark ages' for amenities
- Would benefit the BGH and others including villages
- The small existing store in Tweedbank would survive, and local businesses will continue to be supported
- Would be convenient, and encourage competition and diversity. It would benefit the Co-op to have competition
- To refuse would be a backwards move, short sighted, lacking in larger vision and extremely irresponsible
- The existing site is an eyesore, has been vacant for many years – since 1976
- Melrose will survive and Galashiels will still be used for shopping, and it will make no difference to the 'big two'. This would just be a welcome addition
- 83% of people surveyed were in support
- Would benefit residents including the elderly, disabled and those with mobility issues
- It would meet the '20 minute communities framework'
- Business units are proposed
- Though planning policy suggests it should be refused, there have been a number of decisions previously where common sense has prevailed. A precedent has already been set, and the estate is already changing from its original purpose and has sales to the public so it would be no 'great leap'
- Ensure the buildings are not 'ugly boxes', and it would be good to see pitched roofs
- A bus service should be considered

### Objections

- Contrary to the Local Plan and conflicts with national planning policy
- Far in excess of requirement for local shopping expenditure in Tweedbank and nothing less than out-of-town 'superstore' seeking to exploit car borne trade

from a wide area, with unfair advantage, only intended to impact on surrounding towns

- Public and retailers are entitled to expect protection from excessive and unfair development which this is
- Will result in closure of local shops and reduce choice in the longer term
- Jobs won't be additional – they will be made up by job losses from other outlets
- Four times the size of Co-op just five minutes drive away, and will have a devastating impact on it and knock-on impact on Melrose footfall. Impact on Melrose will be severe and negative. Galashiels and Selkirk also will be affected
- Jeopardising public money used to assist Galashiels and Selkirk
- If a 'superstore' is needed surely it would be proposed in the Local Plan
- Will dilute planning policy and set a precedent resulting in further inappropriate development

## **APPLICANT'S SUPPORTING INFORMATION**

The following were submitted with the original application:

- Archaeological evaluation and metal detecting survey
- Bat activity survey
- Community engagement statement
- Design and access statement
- Ecological assessment
- Ecological assessment addendum
- Habitat management plan
- Species protection plan
- Supporting planning statement
- Transport statement

In responding to queries raised by the Development Management service, the following supporting information was submitted:

- Supplementary planning information
- Industrial units viability appraisal (confidential)

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Council Local Development Plan 2016**

zEL39 Strategic Safeguarded Business and Industrial Site  
PMD1 Sustainability  
PMD2 Quality Standards  
PMD3 Land Use Allocations  
PMD4 Development Outwith Development Boundaries  
ED1 Protection of Business and Industrial Land  
ED3 Town Centres and Shopping Development  
EP1 International Nature Conservation Sites and Protected Species  
EP2 National Nature Conservation Sites and Protected Species  
EP3 Local Biodiversity  
EP5 Special Landscape Areas  
EP6 Countryside around Towns  
EP8 Archaeology  
EP13 Trees, Woodlands and Hedgerows

EP16 Air Quality  
IS7 Parking Provision and Standards  
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
IS13 Contaminated Land

## **OTHER PLANNING CONSIDERATIONS**

SESplan Strategic Development Plan 2013  
Scottish Planning Policy 2014

Borders Railway – Maximising the Impact: A Blueprint for the Future

SPG Biodiversity 2005  
SPG Trees and Development 2008  
SPG Landscape and Development 2008  
SPG Placemaking and Design 2010  
SPG Countryside around Towns 2011  
SPG Local Landscape Designations 2012  
SPG Sustainable Urban Drainage Systems 2020  
SPG Waste Management 2015  
Central Borders Business Park Tweedbank Supplementary Guidance/Simplified Planning Zone 2017

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** Most of the application site is allocated for Business and Industrial Safeguarding in the Local Development Plan (LDP). The remainder formed the woodland area close to Melrose Roundabout and is outwith the Tweedbank settlement boundary. This proposed application is therefore at variance with the LDP and associated Supplementary Guidance and Simplified Planning Zone Scheme for the Central Borders Business Park at Tweedbank. This will be a significant factor in the Council's determination of the application.

Notwithstanding the above, they will observe on the proposal in terms of sustainable transport, access means and site layout including parking.

### Sustainable Transport

Scottish Planning Policy, PAN 75 on 'Planning for Transport' and LDP Policies PMD1, PMD2, ED3 and IS4 all cover sustainable transport and in particular the need for development to be located where walking, cycling and the use of public transport is encouraged in preference to the use of the private car. ED3 in particular aims to guide new shopping development to town and village centres. When considered alongside the previous proposal, approved via application 18/01520/FUL, this is a complex proposal to assess in sustainable transport terms as there are a variety of uses proposed/approved. In pure sustainable terms, the petrol filling station location with shop close to the main road network makes sense and the restaurant with drive-thru in this location on route to the railway station seems reasonable too. More of an issue on first impressions is the food retail proposal.

The land is currently allocated for business and industrial safeguarding and with the location for the business units being at the northern end of the site, close to existing business units, this element of the revised proposal does not cause a concern from a

roads perspective. Their proximity close to a food business and retail store may not be best suited if the units were used for heavy industry. However as the proposed use is for Class 5 or 6, this should not be a reason to refuse the application.

It could be argued that any food retail should be in or close to a town centre where walking, cycling and public transport is encouraged most. Having said that, Tweedbank has no clear village centre and the food retail and other businesses proposed are likely to rely on a location which not only serves Tweedbank, but also attracts passing trade on the main road network. There are a number of positives insofar as sustainable transport is concerned. The site is close to the main road network and so will attract pass-by traffic already on the network, it is close to the railway station, and is on a public transport route. It has the benefit of footway and lighting connections with Tweedbank, Darnick and Melrose. The site is within reasonable walking distance from Darnick and the vast majority of Tweedbank and has a wider catchment for cyclists. This end of Tweedbank is starting to develop as a Business Park in line with the Borders Railway Blueprint aspirations and work is currently underway for the preparation of Supplementary Guidance for the development of the mixed use expansion of Tweedbank at Lowood Estate including an indicative number of 300 dwelling units to be provided. All this development land is within a reasonable walking catchment of this application site. All matters considered it is their balanced opinion that the proposal stacks up reasonably well in terms of sustainable transport, but the one grey area is clear evidence of justification for a food supermarket of this scale in this location in terms of Policy ED3 in the LDP.

#### Access Means

The development site is close to the trunk road network (A6091 Melrose Roundabout) and they note that a consultation response has already been received from Transport Scotland. Their requirements should be adequately addressed in any planning consent granted. With regards the means of access from the existing public road network, there were extensive discussions between the applicants, their engineer and the Roads Planning staff during the consideration of application 18/01520/FUL. The results of these discussions appear to have been included in the proposed access arrangement for this application, hence similar access related conditions to those previously attached should be included in any subsequent approval issued.

#### Internal Layout

The internal road layout appears to be the same as that approved via application 18/01520/FUL. The road to serve the four distinct parts of the overall site has also been granted Road Construction Consent (RCC) by the Council. As such, there is little to comment on that element of the proposal.

#### Business Units Element

- Confirmation will be required as to whether the units are all to be in single ownership and rented out or sold off separately. This will determine whether or not the road serving these units has to be added to the RCC for consideration for adoption upon completion.
- The access arrangement at the eastern end of the units, as it passes the drive thru, appears to be excessive in terms of an open area. Consideration could be given to forming a T junction at this location, thus narrowing the carriageway area from that proposed.
- Confirmation must be provided as to how the units are to be serviced.

- Confirmation is required as to the purpose of the hatched area at the northern end of the units.
- An element of electric charging points would be beneficial within the parking provision for this element of the development.

#### Food Retail Element

- The internal junction of the main access road and the road to the left are in very close proximity to the roundabout. This is not conducive to the free movement of traffic within the development.
- The floor area of the retail unit will require 80 parking spaces according to SEStrans Parking Standards. The submitted layout proposes in excess of this number.
- The level of spaces for disabled people and parent & child are in line with, or in excess of, the relevant standard of 1 space per 20 (or part thereof).
- Confirmation shall be required of how the level of electric spaces proposed was calculated.
- There are no trolley bays proposed within the car park. These however may not be required depending on whether the retailer utilises a pay-to-use type trolley system.
- There are no level details for the access and parking associated with the store. These should be provided to ensure they tie-in with the levels approved for the adjacent roundabout.
- The precise lining at the junction with the roundabout will have to be agreed via the planning process. A suitably worded condition would suffice.

#### Conclusion

If the application is deemed acceptable for approval, the RPS will be looking for conditions to be attached to any consent which will cover the matters listed below:

- The work previously agreed for the alterations to Tweedbank Drive between Melrose Roundabout and the existing public road junction off Tweedbank Drive at the northern corner of the development site to be completed to the Councils satisfaction prior to the first element of the development becoming operational.
- Engineering details to be submitted and approved prior to commencement of development relating to the access and car parking area for the retail unit and the access and parking associated with the business units.
- A full Road Safety Audit (Stages 1 to 4) will be required in due course not only for Tweedbank Drive leading between Melrose Roundabout and the Tweedside Park junction, but also the sections of the internal service road which are to be considered for adoption upon completion. The cost of any remedial work identified in the audits to be met by the developer. Stages 1 and 2 have been submitted previously although these may require amendments if the area of road to be adopted differs from that previously agreed.
- Agreement of a Travel Plan.

*NB Further to the above, the Roads Planning Service were asked to respond to the applicant's reply to these matters, and the outcome of that response is addressed in the assessment section of this report.*

**Environmental Health Service:** No reply

**Archaeology Officer:** Refers to the report for the archaeological metal-detecting and trial trenching carried out in response to the earlier planning application (18/01520/FUL) for the site which has also been submitted with this application. Both of these pieces of archaeological work failed to identify any archaeological finds, features or deposits from any work carried out across the whole area. These factors combine to suggest that there only a low potential for any archaeological finds or sites to be encountered during any groundworks. Therefore no archaeological conditions are recommended in response to this development as the previous archaeological work covered the areas of this application, and no informatives.

**Ecology Officer:** No reply

**Landscape Architect:** Refers to a consultation in response to the previous application (18/01520/FUL) where she outlined the development of Tweedbank in the 1970s, as a village and industrial estate within a scheme of structure planting that aimed to create a woodland structure into which development would fit. The structure planting undertaken at that time was successful and has helped to reduce the visibility of development, especially industrial development and has developed into an attractive area to live and to carry on a business. As a result of the approval of the recent application (18/01520/FUL) in excess of a hectare of the structure woodland was removed to accommodate the consented development. The site currently has 17no trees identified as retained at the northern part of the site, adjacent to the proposed industrial units. There are a further 7no trees just outside the southern boundary identified for retention as well as perhaps 6 other trees in this area that have also remained, although not identified for protection.

The Landscape Officer is concerned about the landscape and visual impact of the proposed development on both the industrial estate and on the wider area, sitting as it does close to the boundaries of the Eildon and Leaderfoot National Scenic Area and the Tweed Ettrick and Yarrow Confluences Special Landscape Area. The development vision has been negated by the almost complete removal of the trees around the south and east sides of the site as a result of the previous consent. There are approximately 23 trees remaining along the south and east boundaries and these have almost no ability to ameliorate the scale of the buildings being proposed. The subsequent application do nothing to address the openness of the site from both the A6091 and from Tweedbank Drive, relying on existing trees to provide a landscape setting for the buildings.

#### Retail store

Any proposal along the southern boundary must demonstrate that there will be no impact on the retained trees. To that end an updated Tree Protection Plan (TPP) in accordance with BS 5837:2012 should be submitted and protective fencing must be erected before any works commence on site.

The retail store is of such a scale that, together with the proposed parking, there is no scope for landscape structure planting in order to create a landscape setting. With approximately 6m of ground between the south boundary and the proposed building and road network there is little space to create some structure planting that is needed to settle the developments into the landscape along this sensitive edge. The proposal to plant a total of 6no trees and to clothe the embankments with ornamental shrub planting (effectively groundcover plants as they don't exceed a metre in height - and most are much lower in height) is wholly inadequate. To satisfactorily mitigate the visual effects of the building and associated parking etc along this southern boundary a landscape strip in the order of 20m wide, to be planted with woodland planting is

required. This would reflect and connect with the scale of woodland planting immediately to the west and provide a visual buffer from the A6091. To achieve this level of structure planting would require the building and associated road layout to be moved northwards but it is the landscape architect's opinion that this could be achieved with the loss of only a proportion of the car parking.

The other boundary that is of concern is the west boundary (within the car park) and its relationship with the existing internal industrial estate road. The proposal is to create a steep embankment to accommodate the car park levels in this area and it will be visually incongruous with the surrounding industrial estate landscape. At the very least to accommodate the level change along this boundary, some car parking should be removed (33 -39) to achieve a more gentle slope which could be planted with a semi-natural tall shrub mix such dogwood, Guelder rose and wild rose species or similar which would associate better with the existing woodland block immediately to the north (outside the site boundary) To reduce the visual impact of car parking the internal boundaries, which are limited in width, might better be planted with hedging to achieve an acceptable degree of low level screening as well as to associate with the proposed hedge planting to the larger site. Because there is an approved scheme of planting for the overall site (excluding the Lidl store) the planting proposals for the Lidl site must acknowledge the approved planting scheme and demonstrate how the Lidl planting – especially along the internal boundaries will sit with the approved landscape – location of trees etc - even if out with the Lidl site.

### Industrial Units

At the northern site boundary there are trees identified as retained in close proximity to the proposed industrial units and it must be demonstrated that there will be no impact on the retained trees. To that end an updated TPP should be submitted for approval. Protective fencing must be erected before any works commence on site. By her count there are at least 16no trees remaining in this part of the site and we need to see the footprint of the industrial units overlaid with the Root Protection Areas (RPAs) of the retained trees to be satisfied that there will be no impact on these trees. Consideration will also have to be given to the crown spread of these trees given the proximity of the units to the trees.

The scale and mass of the industrial units at this prominent location is a concern next to Tweedbank Drive, the main road that runs through Tweedbank. There is no variation or articulation in the elevations to the north west which could help alleviate the mass of the units and this together with the 2m tall palisade fencing could have a negative visual impact on receptors on Tweedbank Road as well as introducing a very different scale of building to the industrial estate which has tended to be units of a lower height. Queries the use of palisade fencing at this location suggest that there are alternative fencing solutions that are less industrial and more low key fencing, such as weld mesh fencing which is used round adjacent units would provide a sufficient level of security without being so visually intrusive.

A landscape scheme should be developed which is appropriate to the proposed industrial units (as opposed the hotel) for the whole of the area relating to the industrial units but especially the north east side of the units to help settle industrial buildings into the immediate area. A much more robust planting scheme than was previously proposed, with a significant amount of tree planting will be required to satisfy my concerns about visual effects of industrial units at this location, when seen from Tweedbank Drive.



## Conclusion

The proposed retail development is of a scale that there is no space to ameliorate the negative visual effects through appropriate planting. The landscape officer would want to see proposals that allowed appropriate amount of structure planting along the southern boundary of the retail unit site to help settle it into the landscape and a more appropriate planting scheme for the car parking areas to reduce the prominence of the cars.

The industrial units also require a robust planting scheme to help settle them into the landscape when seen from Tweedbank Drive. Also without an updated Tree Protection Plan the landscape officer cannot be fully satisfied that the retained trees will not be impacted by the development.

On landscape and visual grounds, the application is not supported.

**Access Officer:** No reply

**Forward Planning Service:** No reply

**Economic Development Service:** No reply

## **Statutory Consultees**

**Tweedbank Community Council:** Unanimously supports. This application not only has the full support of the Community Council, but it is widely supported by the vast majority of Tweedbank residents. In fact, it has the overwhelming support of the village.

In supporting the application the Community Council comments that:

1. Tweedbank is a growing community with plans put forward by Scottish Borders Council for up to an additional 300 properties to add to the 900 properties already in the village. Although the village has an excellent small local shop, which the community will continue to support, it is poorly served for quality retail provision. The proposed application would provide a very important, and much needed, retail offering for the village.
2. The Community Council and community of Tweedbank have supported the proposal to extend the village by at least a further 300 houses, but only if Scottish Borders Council commits to improving both retail, leisure and other facilities for the community. The proposed retail store, which would be operated by Lidl, would be an excellent provision for the community and along with the new petrol/filling station and Costa Coffee, it would provide more amenities for the whole community.
3. The application will provide additional business/commercial units which will enhance the current provision of business and commercial accommodation. The application would complement the existing Innovation Park and Industrial Estate and the proposals by Scottish Borders Council for further business development as part of the Tweedbank extension at Lowood.
4. The site under application has been vacant since 1976 with no development interest until the Borders Gateway development. In fact, the site has been actively marketed for the last 10 years with only the current developer showing

any interest. The Community Council strongly supports the current planning application as it would see a previously unused site developed for much needed business units and a food retail store, which the community overwhelmingly supports.

5. The provision of a retail store will provide much needed facilities to support the Innovation Park and Industrial Estate and will help encourage other investors to the area, as there are facilities which can be used by those who work in the Innovation Park and Industrial Estate. Successful Innovation Parks and industrial areas cannot just be factories and offices alone, they need other facilities to thrive.
6. The application's proposals are entirely consistent with the Scottish Government's 20 Minute Communities approach to development. At present, for the majority of shopping needs, Tweedbank residents have to travel by car or bus to Galashiels or Melrose. The provision of a quality retail offering in Tweedbank would reduce the need for travelling, cutting journey times and emissions. The proposal would mean that Tweedbank residents would need to travel less, which would in turn be more environmentally sustainable.
7. The proposed Lidl store is modest in size and, in their view, it would have no detrimental impact on the Galashiels High Street, where there is significant retail floor space for supermarkets and other retailers. In terms of Melrose, the provision of a Lidl at Tweedbank is a different type of store than the small Co-op convenience store. This store does not compete with the larger stores in Galashiels which is evidenced by the fact that Co-op has invested significantly in the store as well as in other Co-op stores in the area. Melrose has thrived and is a very different shopping experience to Galashiels. The Co-op shop is already over trading as can be seen from their recent application for an extension for servicing hours. It is also seen as expensive and unaffordable for many residents in Tweedbank and the surrounding area.
8. A Lidl store in Tweedbank would introduce choice and provide a much needed enhanced retail experience for Tweedbank, Melrose, Earlston and Newtown St Boswells and would introduce more affordable shopping choices for families struggling with the current cost of living.
9. Post Covid, our patterns of working will change with more people working from home and less people in offices and business units. Therefore, it is critical that for the Innovation Park and Industrial Estate to be sustainable over the longer term, careful consideration will need to be given to the type of businesses which are allowed to operate. A rigid policy which precludes some business activity may actually be very harmful to the interests of the Innovation Park and Industrial Estate and mean that land and units will lie empty and unused.

Post Covid, the Council needs to embrace all opportunities to secure investment and jobs for Tweedbank and the Scottish Borders. The current application, alongside the already consented Borders Gateway proposals, provides a mixed development with a good range of facilities and opportunities and in a post Covid world, this type of development is more likely and should be supported.

10. The proposed application would support the creation of up to 100 much needed local jobs and provide opportunities for local people to gain employment and receive training and enhanced vocational opportunities.

Tweedbank Community Council hopes that Scottish Borders Council will approve the above planning application without delay and ensure that this excellent private sector opportunity is embraced and not missed. Policy considerations must take into account market demands and changing household needs. In relation to this application, they are of the view that the overwhelming benefit which the application will bring to the Tweedbank community far outweighs any policy considerations which would prevent the development taking place and would only result in the land remaining vacant and no jobs being created. In fact, when you consider the arguments for and against the development, the arguments for it are significantly stronger than the reasons against. The community of Tweedbank have embraced the plans by Scottish Borders Council to extend the village by at least a further 300 houses and they have done so on the basis that the Council's Planning Team have also promised an enhancement of community facilities to support the extension. The community overwhelmingly supports the current planning application and will simply not understand the rationale for it being refused, if that were to be the case. In fact, a refusal would call into question the assurances and promises given by Scottish Borders Council about the Tweedbank extension and all that it offers for the community. They ask for consideration of the above and give the green light to proceed and seize the opportunity of this much needed and supported investment proposal.

**Melrose Community Council:** Cannot support the application.

This application is on a site approximately one mile from Melrose High Street not originally designated for retail development. The Community Council is deeply concerned as are many of the Melrose town traders that if an out-of-town supermarket gets the go ahead here SBC have not learnt any lessons from Galashiels where out of town supermarkets have ripped the heart out of the high street shops and now spent vast sums trying to regenerate Galashiels town centre to no avail.

Melrose at present has one of the most vibrant High Streets in the borders and they cannot stand back and allow this to go the same way as their very close neighbours in Galashiels. They want to preserve and improve what they have and keep all their individual shops which bring visitors from far and wide to Melrose to shop who then go on and use all the other facilities which are available supporting many local businesses within the town who work very hard to sustain their businesses and keep Melrose vibrant.

Even by reducing a small percentage of business from Melrose High Street could be enough to break some traders and spoil for good the very thing they strive to maintain. The CC feel that an out-of-town discount supermarket can only do harm to the high street businesses by drawing customers away from high street. Once the businesses are gone that is it and as at other big towns almost impossible to reinstate.

**Galashiels Community Council:**

- This is a benefit to local people and wider afield.
- Lidl caters for a specific sector by virtue of its pricing and goods for sale.
- People supported the supermarket via the survey which was mentioned at the meeting. Jobs would be created and Lidl was a 'good payer'.
- Jobs could be lost elsewhere and thus the employment situation would be 'neutral'.

- Some thought that market forces would assist in ensuring Lidl and wider shops would become more competitive thus driving up standards and making prices more competitive etc.
- Tweedbank is a business park to provide land for non-retail commercial use. Such land is not in great supply, especially in the area near to the station.
- Some were of the view that this would have an adverse effect on (smaller) local shops in Galashiels and Melrose but others felt that people would still buy produce from local butchers, fishmongers and grocers as they provided the best quality etc.

**Scottish Water:** No objection, though this does not confirm the development can be serviced. There is sufficient capacity in Howden Water Treatment Works. Capacity at Galashiels Waste Water Treatment Works is unable to be confirmed. Assets within the site are identified, believed to be pipework for the development. Surface water will not be accepted into the combined sewer.

**Transport Scotland:** Advises that conditions be imposed regarding lighting; frontage landscaping along the trunk road boundary; details of fencing/barriers; and there be no drainage connections to the trunk road drainage system

**Historic Environment Scotland:** Considered potential effects on the Battle of Darnick Battlefied site and have no comments.

## **KEY PLANNING ISSUES:**

The key planning issues are whether the development accords with development plan policies and guidance with particular regard to loss of employment land and the policy strategy for the existing business park; and with regard to the provision of out-of-town retail and particularly its potential impacts on the viability and vitality of town centres. Other key issues include the landscape and visual impact of the development and whether it would constitute sustainable development. In addition, a key determining matter is whether any apparent conflict with development plan policies and guidance should be overridden by other material considerations, including the benefit to the economy and local community

## **ASSESSMENT OF APPLICATION:**

### **Principle**

In making any determination of a planning application, decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker to judge the extent to which those material considerations are overriding. In this case, the development plan comprises the Strategic Development Plan 2013 (SESPlan) and the Local Development Plan 2016 (LDP).

As regards SESPlan, there is no direct conflict with policies contained within it, albeit the plan contains background to policies that are relevant (and explored later in this assessment).

### **Policy PMD1**

In terms of the LDP, the primary policy governing all developments is Policy PMD1. This establishes sustainability principles applicable to all development proposals, and

consideration of its criteria (such as encouragement of sustainable travel) are accounted for here, where relevant, against other LDP policies later in this assessment. As regards the principle of development, however, it is important to note that PMD1 encourages new jobs and support to the local economy (criterion k), but requires that developments comprise the 'long term sustainable use and management of land' (criterion a). As is noted below, the retail element of this development will provide jobs and the business units will facilitate employment too, but a conclusion reached in the following assessment is that this will not be achieved sustainably. This is because it involves the loss of employment land to achieve it, on an out-of-town site at odds with town-centre-first policy. The proposal conflicts with the requirement to achieve sustainable development as required by PMD1, and the detail behind the justification for this conclusion is provided further in this assessment.

Other key LDP policies related to the principle of development are Policies PMD4 and EP6; ED1; and ED3. Policy PMD3 governs how land use allocations are managed and is also relevant.

#### Policies PMD4 and EP6

Most of the development site is within the settlement boundary, however, notably the southern portion of the retail development extends outwith into the Countryside Around Towns designation safeguarded by Policy EP6. There is no policy support for retail development within the CATs area however, given this extends into an area already breached by the petrol filling station (PFS), on land where woodland has been cleared, it is not considered the breach to the integrity of the CATs area is material.

However, PMD4 also seeks to protect the settlement boundary at this location. PMD4 allows for an overriding community benefit to outweigh the need to protect it. There is an obvious community benefit to providing retail development to serve the Tweedbank community particularly. However, regardless of whether this is overriding or not, the fact that the boundary followed a tree belt that has since been felled and the A6091 now forms a more visible line that can govern the extent of development, suggests the strength of the settlement boundary at this location has already been diluted. Nonetheless, the proposed additional encroachment has landscape/visual consequences in itself that are material. Accepting the principle of the breach still requires that PMD4's criteria be applied including that developments do not "prejudice the character, visual cohesion or natural built up edge of the settlement" (c) and do not cause "a significant adverse effect on the landscape setting of the settlement" (d). As is noted in the Landscape and Visual section of this report, both these criteria are considered to be conflicted with by the proposed development. The proposal, therefore, fails Policy PMD4. The implications of these conflicts are adverse and explained further in this assessment.

#### Policies ED1 and PMD3

Most of the development is within the area safeguarded by Policy ED1, and identified as zEL39. This site is allocated as a Strategic Business and Industrial Site and ED1 requires that:

Development for uses other than Classes 4, 5 and 6 on strategic business and industrial sites in the locations identified in Table 1 will generally be refused. Uses other than Class 4, 5 or 6 can be considered if clearly demonstrated as contributing to the efficient functioning of the allocated site.

### Business units

The proposed business units are to accommodate Classes 5 and 6 and, therefore, will comply with ED1. That said, the LDP allocation states that the allocation is expected to become a Strategic High Amenity Site through the period of the LDP whereby its restructuring to a high amenity estate is anticipated. The site is also identified within the Central Borders Business Park Tweedbank Supplementary Guidance which seeks to realise that vision, and includes the Simplified Planning Zone (SPZ) which facilitates Class 4 (offices and light industry) on this part of the designation. To date, that restructuring has not occurred; the LDP is more than five years old; and, these units are proposed on the site of the hotel which can still be built (no matter that it is not now the applicant's intention). These units will be more compliant with ED1 and the Supplementary Guidance than the consented development and these considerations allow for these units to be supported in principle. Reference is made in the submission to these being 'trade counter' units. A condition would, if consent were to be granted, need to be imposed to ensure any retail to the public (if intended) is at an ancillary level.

### Retail development

This does not comply with Policy ED1, and it is not considered that any argument that a supermarket would contribute 'to the efficient functioning of the allocated site' is convincing, (particularly alongside a PFS, shop, and drive-thru that have already been approved having accounted for the Supplementary Guidance's support for small scale retail of up to 140sqm). A retail supermarket may benefit those using and visiting the estate, but it will not contribute to its efficient functioning. This is not the type of development the flexibility in ED1 is designed to promote. The retail development, therefore, fails Policy ED1.

Policy PMD3 requires that uses on allocated sites comply with the LDP allocation and planning brief, unless:

- a) *It is ancillary.* However, a supermarket is not 'ancillary';
- b) *There is a constraint on site and no reasonable prospect of its becoming available for the development of the allocated use.* The site has complications in terms of costs of development, but no known constraints that would physically prevent business use development. Viability issues are considered further below.
- c) *The alternative use offers significant community benefits that outweigh the need to maintain the allocated use.* In this case, the benefits of a supermarket to serve the demand of local residents are appreciated and it is entirely understandable that local residents would consider this community benefit to be overriding. There is evident public support for the retail aspect of this development particularly. Key benefits could include:
  - added choice and improved competition;
  - accessibility, particularly for residents with mobility issues;
  - reduced need to travel to Galashiels and Melrose;
  - job creation;
  - development of a long-term vacant site;
  - delivery of business units that could otherwise not be funded other than with the retail development;
  - Investment in the business park, arguably attracting interest for further development.

However, these benefits must be considered against the implications that may potentially result:

- Impacts on town centres (as noted later)
- The loss of a highly accessible site that could provide for business development to take advantage of the railway and strategic road network
- The loss of potential job creation resulting from prospective business development. Though this application references 100 jobs that would be for the entire development. The retail unit itself would be anticipated to be considerably less; may result in job displacement; and any benefit must be considered together with the potential loss of jobs associated with business development that might otherwise have been provided;
- The catalyst that retail development may potentially trigger (particularly cumulatively with the PFS and drive-thru) for additional retail and non-compliant development pressure, further eroding the integrity of the estate as a business park, and undermining all previous efforts by the Council to ensure such a strategic site is maintained for business development that can benefit from the proximity to the railway and strategic road network
- The reduced scope of the Planning Authority to resist further pressure from non-compliant uses given the extent to which these would already have developed on the estate as a result of this proposal and the previous consent
- The visual consequences of developing a site (formerly well contained by woodland) in a manner which is evidently designed to be visible from outwith the site. Trees were cleared here to open up views to the site and it is apparent that the applicant's intention is not to treat this southerly boundary sympathetically (as examined later in this report).
- Whether the business units are developed or not is entirely at the discretion of the developer unless their provision is regulated by condition or legal agreement and, given the financial uncertainty involved, this would likely be challengeable. The applicant has advised that the business units rely on the retail unit; that the whole development must happen together to achieve a 'critical mass'; and a significant number of pre-lets are required to render the business units viable. However, they also advise that "there is however no guarantee of this and the industrial units remain speculative with no substantial marketing taking place to date". Indeed, if they aren't developed, it leaves the future prospect of an alternative development being proposed on their site since the land is still consented for a hotel. A further argument could be advanced that such a site is already surplus to business park requirements.

Ultimately, it is acknowledged that there are community benefits that may result. There are also serious implications for the integrity of Tweedbank as a location for inward business investment of the type envisaged by the LDP and Supplementary Guidance. Accepting that community benefits of a supermarket override such a strategically placed business park will likely require a re-appraisal of the planning policy approach to the future of the estate. It is this service's view that, notwithstanding the benefits to be realised, the primacy of the LDP should be maintained if the future of the development in Tweedbank is to be plan-led by the Planning Authority, and not exploited by the opportunities identified by developers. As PMD3 notes, whether community benefits are considered overriding or not must be judged against the need to maintain the original proposed use. In this regards, it is important to briefly identify why this site is allocated for employment land use:

- Scottish Planning Policy requires that the planning system promote business and industrial development, and allocate sites to meet the diverse needs of different sectors and sizes of business (paragraph 93);
- SESPlan 2013 requires that LDPs should ensure there is a generous range and choice of employment land sites which are highly accessible (paragraph 93). Though it also acknowledges when non-conforming uses may be appropriate, this would include complementary uses such as waste. Retail development will normally be resisted.
- LDP Policy ED1 is designed to ensure there are adequate supplies of business and industrial land retained for such purposes, and not diluted by a proliferation of other uses. The policy recognises the financial difficulty of bringing these forward, so the policy seeks to protect resources into the long term. ED1's strategy is even more important given the continuing move towards e-commerce based businesses that require units within business parks (a trend acknowledged in the applicant's submission).
- Central Borders Business Park Supplementary Guidance notes that the business park is of strategic importance to the Central Borders, benefiting from transport links and connectivity, with the potential for rejuvenation following provision of the Borders railway. The associated SPZ is designed to facilitate the SG's vision.
- Borders Railway – Maximising the Impact: A Blueprint for the Future states in its foreword that "The Central Borders Business Park, located in Tweedbank, will be developed to respond to, and capitalise on, this opportunity with the provision of new high quality office accommodation, suites and facilities". The applicant contends that "the opening of the railway and the growth strategy of the Council for Tweedbank and the Lowood Estate has raised the profile of this specific area which has presented this current opportunity". However, the purpose in doing so, and in attempting to provide a planning policy framework to realise the Borders Railway blueprint was not to facilitate the erection of a supermarket. This proposal cuts firmly against the strategy proposed for Tweedbank following the provision of the railway and, given this is fundamentally a car-borne development, it is difficult to conclude that it would maximise the impact of the railway.
- Employment Land Audit 2021 identifies this site and notes that "Going forward the Proposed Plan requires more employment land of suitable type, availability and site servicing to be found in particularly the Northern HMA and further land in the Central HMA around Galashiels and Tweedbank." (paragraph 6.1.5). It remains a requirement, therefore, to maintain and expand on employment land opportunities.
- Proposed Local Development Plan 2. Though the value of the LDP2 as a material consideration is very limited, it is to be at least acknowledged that the intended employment land allocation would remain

Fundamentally, employment land suitable for business is a scarce resource and to develop for other purposes will mean land will need to be found elsewhere. The above policy documents are designed to ensure protection of land suitable for business development at Tweedbank. That the Council has identified the area as a strategically important allocation and has promoted its first Simplified Planning Zone here specifically to promote business development interest is a reflection of the fact that the site is unarguably the most significant in the region. The site is also the subject to a financial commitment and associated expectation through the Scottish and UK Government's City Region Deal. To use it for other purposes is an unsustainable form of development contrary to the overarching principle applied by Policy PMD1. Investment is occurring in Tweedbank (with a large Class 4 industrial unit being



developed to the west of this site) and occupancy levels are high. This complements development outside the estate alongside the railway where progress is being achieved on the Innovation Park. The continued development of the business park should be maintained unless benefits otherwise are overriding. It is not, however, considered that the community benefits allow for the development to comply with PMD3, and therefore the provisions of ED1 should prevail.

ED1 also requires also that all developments respect the character and amenity of the surrounding area, be landscaped accordingly, and be compatible with neighbouring uses. In this case, though there no significant concerns with conflict with neighbouring uses, the proposal does raise landscape and visual implications (as noted in the Landscape and Visual section of this report), that suggest the requirements of Policy ED1 are not complied with. Furthermore, the LDP allocation requires that “careful consideration would require to be given to landscaping, particularly along the southern edge of the site, in order to ensure an attractive edge to the business and industrial site”. It is not considered the proposal complies, and the implications of this conflict will be adverse. These are explained further below.

#### Other material considerations

It is necessary to consider whether other material considerations would justify a departure from LDP policy, and these are accounted for below:

#### Sustainability

Because the LDP is more than five years old, the provision of SPP as regards its presumption in favour of sustainable development is a significant material consideration. However, the sustainability benefits of the development – including economic benefit; efficient use of land; delivery of retailing and infrastructure; accessibility; and community benefits – do not, in this service’s view, override the negative implications which include loss of land required for business purposes that would otherwise need to be found elsewhere; undermining of the Council’s strategy for the business park; overdevelopment and landscape and visual impact concerns; conflict with town centre policies (the latter two points are examined further below). It is not considered that the provisions of SPP override the LDP.

#### Previous consent (18/01520/FUL)

The previous consent for a hotel, PFS and drive-thru was approved, despite conflict with Policy ED1. Three key material considerations underpinned that decision

1. The site extended into woodland (not part of the allocation) and the retail element (aside from the PFS shop) was removed, thus ‘reintroducing’ at least 0.8ha back into the supply
2. The hotel site allocated adjacent the railway station was developed for business, thus justifying a hotel on the proposed site. The aspiration for a hotel in the wider site is also recognised in the SPG and was something that, given the relatively short supply of tourism accommodation locally, was the part of the development that tipped the overall proposal toward a recommendation to approve.
3. The site to be developed for the Tapestry adjacent the roundabout could instead potentially be developed for business.

However, on these points 1) the retail element has now, of course, been reinstated and most of it is within the allocated site, thus this significant consideration has now been removed 2) the hotel site is now proposed for business units, but there remains

the potential for a hotel site still to be found – the same argument used in 18/01520/FUL could be made again in future and, indeed, the approved site could still be developed for a hotel since it has a planning consent 3) the intended Tapestry site has not yet been subject to any planning application, so its future use is not known, albeit it is accepted it may later add to the employment land allocation in the next LDP.

#### Viability and net loss of land

The applicant contends that the site is long term vacant, with high redevelopment costs and that it is not viable to develop for business purposes as a result, due to the costs and low rents achievable. The previous application was subject to appraisals that contended this to be the case, and the current application includes information on the proposed business units that implies the same (as noted above). However, no information has been provided to demonstrate that building business units instead of the retail unit, using cross funding and sharing of costs with the PFS and drive-thru, would not be viable. The applicant has been given the opportunity to provide this information and, in response, they reassert their contention that the costs to develop the site for business development are too high, and that this proposal represents the only opportunity for business development on any part of it. However, this does not, in itself, confirm the lack of viability of developing business on the retail site. At this stage, therefore, it is not sufficiently and conclusively demonstrated that the retail site is not developable for ED1-compliant purposes.

It is also contended that the proposal will not increase the amount of land identified for non-business uses. However, given the proposed business units comprise a site of circa 0.3ha and the retail unit a site of circa 0.85ha, the implication for the allocated site is clear. The entire site area including the consented development, is 2.3ha, thus the proportion of Class 5 and 6 development is very much in the minority.

As noted from the outset, the relevance of material considerations is for the decision maker. In this service's view, the above material considerations do not justify a departure from the LDP as regards the retail development. The proposal will be contrary to Policies PMD1, PMD3, PMD4 and ED1 and the resulting consequences would be to unsustainably develop and promote an allocated business park for the benefit of retail to the detriment of its long term value as a destination for businesses.

#### Policy ED3

Policy ED3 of the LDP applies a "town-centre first" approach to retail developments, as required by the SESPlan and SPP. Criteria a) to h) apply to out-of-centre development proposals. Tweedbank has no town centre and, therefore, the proposed supermarket is an out-of-town development. The application is supported by a retail assessment, though the proposal is not quite of the scale requiring a full Retail Impact Assessment (being 1995 sqm as opposed to the recommended 2500sqm). The named operator is Lidl, though any consent would not be for an operator specifically. That said, the fact the proposal is for a discount food operator, and the potential for another operator availing of the prospective consent, have some bearing on the assessment. However, given the existing retail offering in the catchment, the potential for a different operator would be reasonably unlikely. However, presumptions made in the retail assessment must be considered cautiously since it is, nonetheless, a possibility.

Reference is made within the applicant's assessment to a planning consent granted for Lidl in Comely Bank, Galashiels (19/00098/FUL) and which will not now be taken up. This has been accounted for in the following assessment, where relevant. However, the implications of this development are different to that at Comely Bank

which involved the reuse of a very well-established existing retail outlet within a retail park, assessed for potential impacts prior to the pandemic, since when the future of town centres has become increasingly less certain. It is not considered reasonable to draw direct comparisons on impacts as a result.

The assessment does not account cumulatively for the approved PFS shop, though the net sales area for that development as approved was half the gross floor area of 324sqm, so not significant in itself. Any additional impact from it is to be acknowledged, however, as potentially adding, albeit minimally, to the potential impacts of the proposed supermarket. Factored into the cumulative risk must also be that of the consented drive-thru restaurant.

- a) The individual or cumulative impact of the proposed development on the vitality and viability of existing town centres;

Catchment areas of 5, 10 and 15 minute travel times are applied in the applicant's assessment. Town centres potentially at risk are Galashiels, Selkirk and Melrose. The applicant's retail assessment predicts the following potential impacts on each. Figures are within a range between the applicant's initial assessment, and a subsequent assessment that increased the turnover rate of the proposed store above company average, as well as the draw rate from Melrose, and accounted for retail unit changes in Selkirk:

- Galashiels: 7.1% - 7.6% reduction in convenience shopping; 3.1% - 3.3% overall
- Melrose: 8.2% - 15.2% reduction in convenience shopping; 3.4% - 6.4% overall
- Selkirk: 1.5% - 3.3% reduction in convenience shopping; 1% (NB figure corrected from submitted assessment) – 2.4% overall

These predictions are based on several assumptions, and must be treated with caution as a result. For example, albeit the applicant has reasonably contended that Lidl will likely compete more with weekly shopping outlets in Galashiels than it will with 'top-up' shops in Melrose, the supporting retail impact assessment for Comely Bank advises that Lidl "provides principally pre packed foods with only limited provision of fresh fruit and vegetables. In addition, limited fresh meat and fish lines are offered as the shop does not seek to meet all the requirements of a typical 'weekly shop'. Surveys referred to (in the RIA) identified that:

- The average spend at Lidl by shoppers was only £17.00 clearly showing the role of the store as a top-up shop.
- In the region of 55%-75% of shoppers visited other shops (in addition to Lidl) as part of the same shopping trip."

(paragraph 1.13 Hargest Planning May 2019)

This adds to the potential uncertainty of impacts. Ultimately, whatever veracity can be derived from the predictions, they are useful in confirming that the proposed retail unit will impact on trade in Galashiels and Melrose to degrees that may likely be discernible by existing convenience shops, with less impacts on Selkirk suggesting impacts on the latter need not be explored further.

As regards impacts on Galashiels, impacts are most likely on the big supermarkets (Asda and Tesco) as opposed to the rest of the town centre, which will experience a barely distinguishable impact of 0.2% in overall spend. It would reasonably be expected that large supermarkets will be able to compete, given that the scale and range of their offer will far exceed anything offered by this proposal. They are likely to

remain the primary food shopping destinations locally. There may be indirect implications on town centre footfall, though the relative detachment of the large retailers' stores from the core town centre means this may not be notable. The effect is therefore likely to be more significant on smaller convenience retail offer, especially those nearer to the site.

With respect to overall impacts on Melrose, the Co-op will experience the largest impact, with the rest of the town centre experiencing much less of an impact (less than 2% upper prediction), given the small proportion of convenience shops likely to compete in addition to the Co-op. However, the impact on convenience shopping is still, nonetheless, cause for serious concern on two fronts:

- A potential trade diversion prediction of between 8.2% and 15.2% on convenience shopping trade is not an insignificant one, particularly for a town centre with limited convenience offering to begin with.
- The diversion impact predictions on the Co-op, of between 9.1% and 16.3% are also not insignificant. It is not the role of planning policy to curtail competition and protect individual shops, but it is also material that the Co-op acts somewhat as a convenience anchor point for the town. If the footfall associated with the Co-op is materially undermined, then that could have knock-on effects for footfall to other small shops. That is clearly an undesirable outcome for the town centre, no matter that the town does not rely fundamentally on convenience trade. The applicant asserts that the higher prediction impact would revert the Co-op to pre-pandemic levels of trading, and there is an assertion that the shop is overtrading. However, the impact is still a negative impact one on an established town centre shop that has significance to Melrose town centre.

Trade impacts, however, must also be considered against the strength of existing town centre performance, to establish the significance of impacts. Based on current and previous studies for the Council as regards town centre health, vacancy, retail mix and footfall rates, the following are known (up to summer 2021):

#### Health Checks:

Galashiels has consistently scored above average for the previous five years. Melrose has consistently scored one of the highest in the region with the number of independent shops noted, and in a well maintained, high quality environment.

#### Vacancy rates:

Galashiels' vacancy rate calculated in summer 2021 at 17%, 2% above the previous survey, and well above the regional and national averages (11% and 14.5% respectively). However, it has fluctuated in previous years between 15 and 19%, and there is optimism as regards the benefit of the recently opened Tapestry. Melrose's vacancy rate is now at 4%, a record low over the previous five years.

#### Footfall rates:

Both towns experienced drops in footfall following the pandemic lockdown, though Melrose has bounced back almost to pre-pandemic levels. Galashiels is still relatively low though, again, the influence of the Tapestry has yet to be experienced. Galashiels will be monitored closely as a result.

Retail mix:

Galashiels retains a high percentage of national chains, whereas Melrose has a large number of independent stores. In neither case are charity shops a notable portion of the retail mix.

Overall, therefore, accounting for the potential trade diversion, and the health of existing town centres, impacts on Galashiels are unwelcome, but likely not of considerable risk to its traditional town centre core, and the big supermarkets have substantial scope to be competitive. However, though Melrose is buoyant, successful and thrives on tourist trade and its service provision, it also has a convenience trade element which is anchored by the Co-op. Notwithstanding the applicant's contention that Lidl will compete with supermarkets, there is a clear intention in this application to provide an alternative to shopping in the Melrose Co-op. Members are entitled to come to the view that the benefit to Tweedbank residents of the extra choice, accessibility, and potentially lower prices, is overriding. This service, however, considers that, given the fundamental aim of planning policy is to promote town centres, these benefits do not override the impacts on Melrose.

b) The availability of a suitable town centre or edge of centre site;

No sequential test has been submitted. However, it was accepted during the processing of the Comely Bank application that no suitable site existed within or adjacent Galashiels town centre, and it is accepted too that Melrose has no opportunities. Selkirk is much more peripheral as regards the catchment area and it is not considered that the absence of considering it counts against this proposal fundamentally.

c) The ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge of centre locations;

It was not clear in determining the Comely Bank application that a deficit exists in terms of the quantity of shopping within the Galashiels catchment, despite the applicants then contending otherwise. Galashiels, Tweedbank and Melrose are well served by supermarkets. That said, in that case, it was accepted that a further discount operator would add to the choice available within that retail sector. In the case of this application, it is also not accepted that there is a quantitative requirement for a new supermarket. The applicant's catchments identify that, within the 10 and 15 minute travel times, there is more retail floorspace than available spend, thus there is no need for further supermarkets.

However, the principal argument of the applicant appears to be that, within a 5 minute travel time from Tweedbank, there is a surplus of spend, thus justifying a supermarket. However, that implies that a supermarket is required every 5 minutes of travel time, and that is clearly an unsustainable strategy for the Council to accept in terms of new retail development, notwithstanding policy developments designed to achieve '20 minute neighbourhoods'. That concept is to promote amenities within walking distance. While this proposal would do that, it would also fundamentally be a car-led amenity. That is particularly so here given the relative location of the development, even to the rest of Tweedbank.

Though the benefit of providing accessible retail to Tweedbank and immediate area is fully accepted, it is arguable whether providing a supermarket to compete with town centres, despite the catchment that includes them having more supermarkets than are required, is sustainable as regards out-of-town shopping. The same argument could

be advanced for comparison shopping and other uses that are suited to town centres. If such an argument is to prevail, in order to 'rebalance' the pull of trade to Galashiels, then that should be plan-led, not led by an individual development, if retail is to be developed sustainably to meet locational demand. As noted above, the outcome in this case of providing a supermarket on the basis of a very localised locational need is to disadvantage convenience trade materially in Melrose town centre.

There is also a case made by the applicant that the proposal would meet a qualitative deficiency, in that it would provide for discount grocery shopping that would provide choice as opposed to 'top-up' shopping in Melrose, and supermarkets in Galashiels. This contention is understandable, and is based on the premise that existing retail units are not sufficient to meet the requirements of Tweedbank, its expanding population, and local area. While it is not accepted that there is necessarily a deficiency in choice within the catchment as a whole, it is also not a planning policy objective to curtail competition, or prevent consumer choice, provided the development is sustainable and town centre impacts are acceptable. In addition, although a named retailer is attached to this application, the permission could be taken up by any operator. In this case, however, providing choice to compete with Melrose Co-op and other convenience retailers in the town could have damaging consequences, and those consequences are not, in this service's view, balanced in favour of the proposal.

- d) The impact of the proposal on travel patterns and car usage;
- e) The accessibility of the site by a choice of means of transport;

On the above two points, the site is highly accessible for public transport, including railway, and capable of being accessed by foot, cycle and bus. It will intercept car-borne traffic bound for Melrose and Galashiels and so potentially reduce the need to travel as a result. This is a key benefit to this strategically placed business park location, and the benefit to local residents is likely to be considerable. That said, there may be some additional car traffic as the supermarket may attract customers who otherwise wouldn't travel to Tweedbank, and it is evident that a large amount of car travel is intended. It will also reduce, rather than remove, the need to travel elsewhere. Nonetheless, as the Roads Planning Service endorse the proposal, it is considered it complies with criteria d) and e).

- f) The preference for commercial centres in the preferred order of locations, including appropriate retail clusters and parks, over other out of centre locations;

This criterion is not relevant

- g) The extent to which a proposal would constitute appropriate small scale shopping provision designed to serve the needs of local rural communities;

There is no conflict with this criterion, which refers to small rural or village shops, not supermarkets.

- h) 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 surplus to requirements

This is not a derelict site, though it is vacant. It is not, however, 'surplus to requirements' given it is allocated for employment use.

In conclusion, ED3 does not apply a threshold for unacceptable retail impacts, though does require that town centres are developed and enhanced. SPP requires that there be no ‘significant adverse effect on the vitality and viability of existing town centres’ (paragraph 73). In this case, the impact on Melrose’s convenience shopping offering may not have significant implications for the town’s viability and vitality as a whole, given the extent to which convenience shopping is a limited part of its retail and service offering, and the success of the town centre generally. It is, however, a serious concern that its convenience trade could be undermined significantly in itself, specifically with regard to the threat posed to the Co-op, a convenience anchor store within the town, which is likely to generate linked trips to the town to the benefit of other retailers. It is this service’s view that this places the development in direct conflict with the requirement of ED3 to develop and enhance the role of town centres. While the future of town centres is changing, it is incumbent on planning policy to protect as much of their vitality and viability as possible, particularly post-pandemic and with the growth of on-line shopping. This development poses a serious threat to the convenience trade in Melrose. As noted above, members are entitled to weigh the benefits to Tweedbank against the disadvantage to Melrose. However, ED3 favours protection for town centres, and it is this service’s view that this protection must be overriding.

If consent were granted, it would be prudent to impose a condition that specified the proportion of convenience and comparison goods to reflect the information provided by the applicants, which are 80% and 20% respectively.

### **Land use conflict**

There is no apparent reason to consider any risk of conflict between existing and proposed uses would be overriding or require mitigation or management at this stage. That said, Class 5 use is for general industry, so there is a risk of conflict from the business units that would not occur with a Class 4 use. Ultimately, however, it will depend on the activities of end users, which could change over time. No representations have been made on behalf of adjacent businesses to suggest any particular concerns regarding operational impacts, and it would reasonably be expected that the retail operator has accounted for the proximity of their proposed unit to the Class 5 and 6 business units.

### **Neighbouring amenity**

The proposals would not have adverse effects on neighbouring properties, given the context of commercial developments, and impacts on adjacent non-residential buildings do not raise significant concerns as regards their implications for the amenity of those premises. It would be reasonable to attach a noise condition to ensure operations align with noise mitigation expected under the SPZ. Any air quality impacts would be for separate regulation by the Environmental Health Service as it will depend on exactly what is proposed by way of external emissions, and the EHS has not made any comment to suggest the proposals require further consideration in this regard.

### **Landscape and visual impacts**

Policies PMD2, PMD3, PMD4 and ED1 all expect developments to have sympathetic landscape and visual impacts. This is especially important along the settlement boundary, such as here where the established boundary is being encroached on and previously was screened from public view by woodland. Policy EP13 expects tree impacts to be accounted for and this is relevant to the remaining trees on this site. Policy guidance seeks to ensure account is had for the landscape structure of new development and, in this particular case, the site’s development is also guided by the

Central Borders Business Park Tweedbank Supplementary Guidance. Accounting for these policies and guidance, these are the following key issues:

1) Western and southern boundaries

As noted above, the development extends beyond the southern settlement boundary, so the landscape and visual implications are potentially significant. LDP Policy ED1 requires that “careful consideration would be required to be given to landscaping, particularly along the southern edge of the site, in order to ensure an attractive edge to the business and industrial site”. This proposal places the service end of the retail unit close to the A6091 with no planting originally proposed, and very little room to provide any. Albeit the PFS layout extends as far, that has planting mitigation at that end. The applicant was asked to account for the visual impact on this boundary and, in response, has proposed five trees to the south-westerly corner. This is an inadequate response. It is evident from the applicant’s submission that their intention is to make the retail unit as visible as possible. Their proposal establishes the framework for doing so. Existing trees will provide limited mitigation, and the new trees will be of minimal value.

This proposal will be exposed to the A6091 and, bearing in mind this edge of the estate was previously wooded, the resulting development will have serious visual consequences for the presentation of the business park to the public road. It is opposite a Special Landscape Area to the south and, though not within it, would not at all be complementary to it. The proposal, at this end, gives an impression of overdevelopment and pays little regard to landscaping setting.

The applicant has referred to a Class 4 unit being developed on a site to the west for comparison, however, that does not have the same landscape and visual implications as this development. The most appropriate arrangement for this boundary is to pull the retail unit back, and allow for more planting to screen the development as suggested by our landscape architect, and tie into planting proposed around the filling station and existing woodland. This proposal fails policies and guidance with respect to its impact on landscape setting.

As regards the western boundary, the proposal includes the retail unit’s parking area dog-legging towards the internal estate road. This road is identified in the SG as a principal frontage. Albeit it is clearly less sensitive than the southerly boundary, it must be treated with care to ensure the internal estate road maintains a good presentation. This proposal, however, extends as far to the boundary as seems possible; is set on retaining walls; and, though the applicant was asked to account for the resulting impression of overdevelopment, their response has been to propose limited low level planting. Again, this approach suggests minimal regard has been had to the visual impact of this development on the integrity of the business park, and will appear as overdevelopment. This impact cannot adequately be addressed by planning condition and accounting for our landscape architect’s suggestions, a revised proposal is recommended.

2) Existing trees

As the landscape architect notes, there are few trees remaining following the approval of 18/01520/FUL. This makes retention of what remain all the more important. However, the applicant has not accounted for the root protection areas of trees to the south and north and, having been asked to do, advises that the trees will not be affected. This is not an adequate account for EP13 or our SPG Trees and Development. Albeit a planning condition can require protective fencing, it is not clear



that the northern layout particularly of the business units can be developed without unacceptable encroachment on root protection areas. As our landscape architect notes, we need to see the footprint of the business units overlaid with the root protection areas of the retained trees to be satisfied that there will be no impact on these trees. If that is left as a condition that risks the layout proposed requiring adjustment. Ultimately, this proposal fails to have regard to the risk it poses to the remaining trees, most substantially those to the northern end of the site.

### 3) Levels

Ground levels will be altered on the site (as anticipated under 18/01520/FUL), with retaining walls up to circa 3.5m high alongside the retail unit, such that it would be brought up to a similar level to that of the A6091. Clarity on levels for the business unit site would be needed by planning condition (as none are specified) and, further information on the levels for the retail unit site to ensure as comfortable a fit to its boundaries as possible. The level changes generally and retaining works involved are, fundamentally, not harmful to public view in themselves, aside from the rather unfortunate retention needed to the car park to the west (exacerbating concerns noted above that the resulting visual impression is of overdevelopment).

### 4) Landscape structure

Aside from consideration of the western and southern boundaries, it is important that landscaping within the site, particularly to mitigate parking, is adequate, and that the northerly end of the site is provided with adequate screening alongside what is a considerably large block of business units. The applicant was asked to account for both these factors. In response, they have submitted a landscaping scheme for the retail car park which includes a single tree and low level planting. For the business units, they do not consider landscaping to its outer boundaries alongside Tweedbank Drive needs adjusted from that previously consented, despite the fact that the visual implication of this large utilitarian block of business units will be considerably different to the consented hotel. Within the site too, the applicant is relying on the consented scheme, despite there being more scope for landscaping within the currently proposed site boundary. It is considered that further scope for landscaping within and alongside the site should at least be explored. A planning condition could address this for the most part, though it would appropriately be addressed as part of consideration of adjusting retail unit layout when addressing landscape setting issues generally.

As regards hardstandings, these are mainly block and tar and, though the applicant was asked to consider incorporating a paved finish that reflects that used on other sites within the SPZ area, they have not agreed. Any such requirement would have been minor, to achieve some level of continuity, and its absence is not critical.

### 5) Scale, form, design and materials

The retail unit is a large building, unremarkable in its design, though not inappropriate in this setting. The key issues for its landscape and visual impacts are addressed above as regards landscaping setting and mitigation. Advertisements will also require careful consideration though, as noted below, these are outwith the scope of this application. External materials include white and grey wall claddings, and the former will add to the visual impact of the development thus reinforcing the need to secure an appropriate landscape setting. If approved, conditions can secure details of finishes, including the roof. Plant is proposed within the roof and is discrete according to the drawings.

The business units are close to their 2m-high palisade-fenced boundary, with no external storage, and no identification of external plant areas. They are substantial in their scale, and have no design merit, being box-shaped with no relief to their rear elevation onto Tweedbank Drive particularly (NB the submitted context elevation appears to be inaccurate). These concerns also reinforce the need to secure as robust an extent of planting to that side as possible, in order to mitigate the visual impact of these buildings. The applicant was asked why they need be so large and box-shaped, and their response is that they are speculatively designed to industry standards. In this setting, and particularly without adequate landscape mitigation, they will be overbearing as a result. It is accepted that the SPZ allows for taller buildings with no account to be had as to their design. However, if Class 5 and 6 units are to be accepted here on a site where Class 4 development is encouraged, then a more considered approach to their form should, at least, be considered. The applicant was also asked to consider different cladding treatments to assist with reducing their massing (as opposed to the grey cladding proposed) but has not responded. This aspect could, however, be dealt with by planning condition, as could any external plant/machinery to ensure the latter is as discrete as possible.

If consent is granted, further detail of bike store materials should be sought, and it would be recommended that the palisade fencing to the rear of the business units be adjusted in design.

### **Road and pedestrian safety, parking and travel impacts**

The development would be served off the same access, roundabout and road network approved under 18/01520/FUL, with dedicated parking for the retail unit and business units, and accesses from the roundabout and the northerly estate road. As noted above the Roads Planning Service generally endorse the proposed development in terms of sustainable travel patterns and, given its location next to the main road network, with footpath links, bus route and railway station nearby, this is understandable. This location is also what makes the site ideal for business park development. As also noted above, the RPS raised a number of queries regarding matters such as layout, servicing, electric charging points, road adoption, levels, and queried the amount of parking proposed.

In response, the applicant refers to the consented layout, and the application of standards to various elements, including that the proposed parking levels are below national maximum standards. Levels information was also provided. The applicant was asked to consider a path link from the west but advised that this has been explored previously and is not possible.

Further to their original comments, therefore, the RPS now advise that the applicant's response has addressed their initial queries. They reiterate their recommendation for conditions to control engineering details; and for alterations to Tweedbank Drive to be carried out as previously agreed under 18/01520/FUL. Their requirement for a travel plan and road safety audit can also be sought by condition. Generally, the uses should not come into operation until all approved road infrastructure, paths, parking areas, electrical charging points and bike storage is implemented as approved, and in accordance with any details previously agreed under 18/01520/FUL where relevant. A condition could be imposed to this effect.

Transport Scotland recommend conditions regarding various elements and, if approving the application, it would be necessary to accord with their recommendations.

## **Built Heritage**

The southern part of the site encroaches on the Darnick Battlefield designation. However, Historic Environment Scotland raise no concerns and as noted above, the Archaeology Officer is content, given the assessments previously undertaken for the site. No mitigation is now required.

## **Ecology**

The site is not on or near designations. The application is supported by ecological surveys submitted for the previous application 18/01520/FUL. An update also contends that the previous ecological assessment still applies, and that habitat management and species protection plans previously approved under that consent can still apply. The site has already been cleared of virtually all its trees since the previous application, which was subject to a legal agreement to provide for a financial contribution to off-site compensatory planting. This application proposes no further tree removal (directly). Conditions requiring that the development is implemented in accordance with the previously approved species protection, environmental management and habitat management plans are recommended, if consent is granted.

## **Services**

Mains services are proposed for water and drainage, and Scottish Water do not object. A condition should secure evidence of connections having been granted. Surface water drainage is required to maximise sustainable treatment of surface water and minimise run-off. No submission has been made in this regard. A condition should secure an appropriate scheme if consent is granted. A condition can ensure also that no drainage is connected to the trunk road system, as required by Transport Scotland (albeit any such connection would in the control of TS in any case).

## **Advertisements**

Notwithstanding any references to advertisements in the application submission, this is a separate matter governed by application requirement dictated by the Control of Advertisements (Scotland) Regulations 1984 (as amended). A condition was, however, imposed on the previous consent to obtain fuller control which is reasonably also applied here. That would still not remove the requirement to submit applications, where required, under the Advertisement Regulations.

## **Lighting**

The SPZ for the business park seeks a unified approach to lighting, and the supporting design statement states that lighting will be provided. Albeit this development is not proposed under the SPZ scheme, the same obligation to ensure some continuity, if possible, should apply, albeit how to achieve that with other unrelated site developments will have practical difficulties. Ultimately, the proposal requires further details of lighting which should be secured by planning condition, and account for Transport Scotland requirements, bat impacts and amenity issues.

## **Contamination**

The Council's Contaminated Land Officer has advised that consultation is not required as he has no comments

## **Waste**

The applicant has advised that all waste for the retail store will be internally stored. The business units are expected to store their bins internally and that, "if there is to be any external storage of waste then this would be for each tenant to control and manage". Storage to this effect could be initially controlled by planning condition, though if business units subsequently require external space in future, then the site layout suggests obvious limitations in this regard, and this raises some concern over the future adaptability of the units to accommodate growing businesses.

## **Energy efficiency**

Policy PMD2 and supplementary guidance seek energy efficient measures in design and construction. The retail unit includes solar PV panels and the applicants advise that it will incorporate several other measures, such as:

- Double glazed curtain walling
- Enhanced glazing
- Insulating materials will be zero ozone depleting
- Composite wall cladding and roof panels
- A focus on fabric thermal performance
- High thermal mass to the flooring
- A centralised ventilation system with a thermal wheel heat recovery device
- Heat recovery heat pump
- Controlled ventilation
- Led lamps
- Building management system to control and operate plant efficiently
- Air source heat pumps
- Water efficiency measures

As regards the business units, the most up-to-date building methods and materials will be used, with natural light achieved through rooflights. Sustainable methods of construction will be adhered to in what would be standard constructions updated to meet Building Standards. Their operation will be down to operator requirements, though the applicant would accept any reasonable planning condition as to methods of construction, if this is a planning policy requirement.

Ultimately, LDP policy and supplementary guidance seek to encourage energy efficiency measures, though their provision is reasonably secured, in regulatory terms, through the Building Standards. The difference between the suite of measures intended for the retail store and the business units do illustrate that the latter do not have an end-user in mind, though they will have to comply with energy efficient measures applied by the Building Standards regardless. If the proposal needs adjusted to suit any particular measures proposed, then any reasonable proposal that does not materially affect the planning consent (if granted) could be positively accommodated.

## **Conclusion**

The retail development will potentially be of significant benefit to the residents of Tweedbank and immediately surrounding area. The business units are a welcome addition to existing business floorspace. However, the retail development would not be located within or adjacent a town centre; would comprise the loss of valuable employment land within an established business park location; and would potentially lead to harm to Melrose town centre. It would, therefore, fail policies of the Local Development Plan designed to safeguard existing allocated land and develop and

enhance town centres. It would also comprise an unsustainable development that does not maximise the value of the railway, but rather the economic value of the site for a retail operator. It would also do so in a manner which is visually unsympathetic to the landscape setting of this part of Tweedbank, and risk the loss of further trees, thereby adding to the considerable tree removals already undertaken to facilitate the previously consented development. Again, these conflicts are not in accordance with the Local Development Plan or supported by supplementary guidance. Ultimately, it is possible to argue that the benefits of the development outweigh the Local Development Plan and supplementary guidance. However, it is this service's view that the primacy of the LDP must prevail, and that conflicts with it are not acceptably mitigated by the perceived benefits. Planning conditions or a legal agreement will not fundamentally overcome these unacceptable impacts. The application should, therefore, be refused.

#### **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application is refused for the following reasons:

1. The retail development would not accord with Policy ED3 of the Local Development Plan 2016 in that it would fail to develop and enhance existing town centres. The retail development would be located on an out-of-town site and its potential impact on convenience trade in Melrose poses an unacceptable risk to the town centre's vitality and viability. The benefits of the development would not override the potential harm caused; would amount to unsustainable development contrary to PMD1; and other material considerations do not override the adverse impact
2. The retail development would not accord with Policy ED1 of the Local Development Plan 2016, and would not fulfil the requirements of Policy PMD3, in that it would not comprise a development falling within Use Classes 4-6 of the Use Classes (Scotland) Order 1997 and would not contribute to the efficient functioning of the business park. The resulting development would result in loss of employment land to the detriment of the future of the business park. The benefits of the development would not override the potential harm caused; would amount to unsustainable development contrary to Policy PMD1; and other material considerations do not override the adverse impact
3. The development would not accord with Policies PMD2, PMD3, PMD4, EP13 and ED1 of the Local Development Plan 2016, and would conflict with the requirements of the Central Borders Business Park Tweedbank Supplementary Guidance/Simplified Planning Zone 2017, in that the layout and landscape setting of the retail development, and the scale, form and landscape setting of the business unit development, would have adverse landscape and visual consequences that do not pay sufficient regard to the landscape setting of the settlement, or existing trees alongside the development, amounting to overdevelopment of the site. The benefits of the development would not override the significantly adverse impacts that would result

## DRAWING NUMBERS

A-ST-P-XX-G2-900 A Location Plan  
A-ST-P-XX-G2-905 Existing Site Plan  
A-ST-P-XX-G7-901 C Proposed Site Plan  
Topographical Plan  
A(0)011 P3 Proposed Site Plan  
A(0)012 P3 Proposed Plans  
A(0)013 P1 Proposed Roof Plan  
A(0)014 P2 Proposed Elevations  
A(9)001 P2 Specifications  
A-ST-E-XX-G2-100 Proposed Elevations  
A-ST-E-XX-G2-101 Proposed Elevations  
A-ST-E-XX-G2-104 Proposed Elevations  
A-ST-E-XX-G3-102 Proposed Elevations  
A-ST-P-00-G2-001 Proposed Plans  
A-ST-P-RF-G2-002 Proposed Roof Plan  
A-ST-P-XX-G7-902 C Proposed Site Plan  
A-ST-P-XX-G7-903 Specifications  
A-ST-S-XX-G2-103 Proposed Sections  
A-ST-S-XX-G2-104 Proposed Sections  
R/2548/1A Landscaping Plan  
SK220207-01 P1 Landscaping Plan  
13420-BKP-ZZ-XX-DR-S-0810 Specifications  
Retaining wall specification Specifications

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

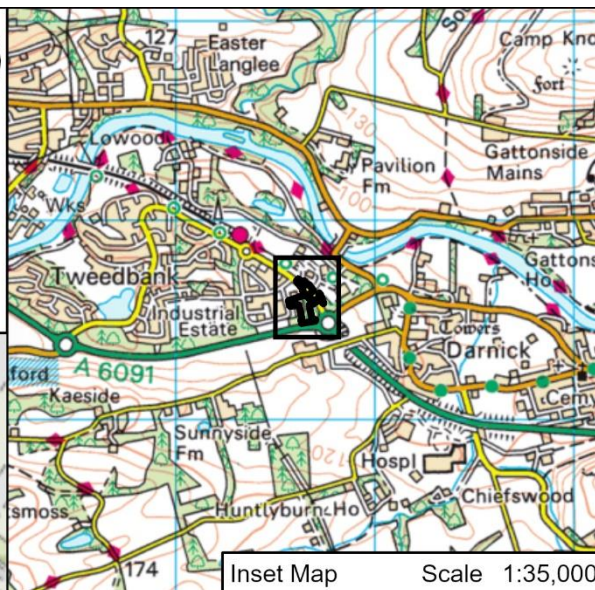
### **Author(s)**

Name	Designation
Carlos Clarke	Team Leader



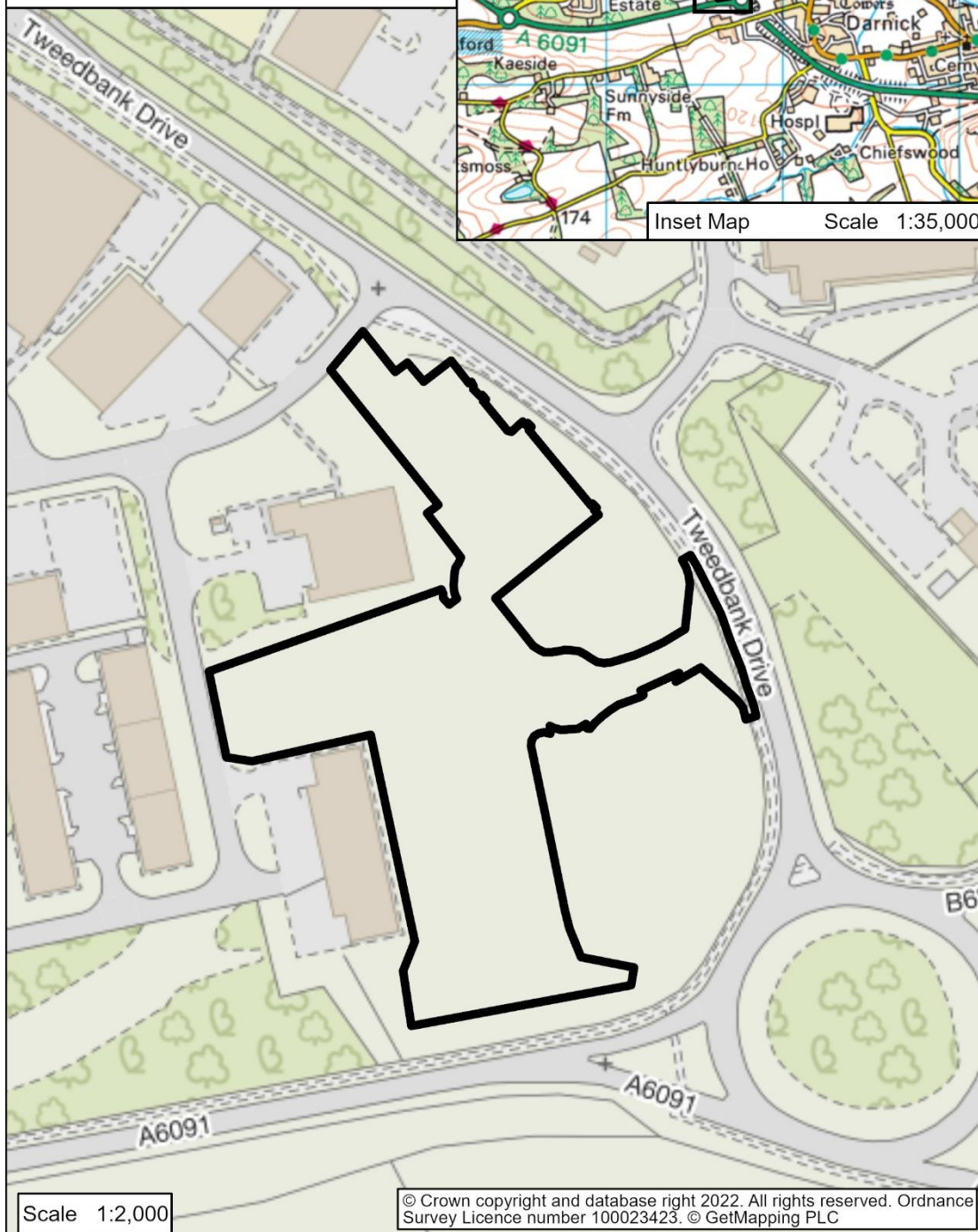
21/01851/FUL

Land At  
Tweedbank Industrial Estate  
Tweedbank



Inset Map

Scale 1:35,000



Scale 1:2,000

© Crown copyright and database right 2022. All rights reserved. Ordnance  
Survey Licence number 100023423. © GetMapping PLC