

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/01109/FUL

APPLICANT : J S Crawford Properties (Berwick) Ltd

AGENT :

DEVELOPMENT : Change of use from Class 4 to Class 11 RDAS Gym (retrospective)

LOCATION: Unit 8
Tweedside Park
Tweedbank
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
TB/PP/CoU/001	Location Plan	Approved
TB/PP/SitePlan/002	Proposed Site Plan	Approved
TB/PP/SitePlan/003	Proposed Plans	Approved
TB/SitePlan/004	Proposed Plans	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Consultations

Roads Planning Service: No objection

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2, PMD3, ED1, HD3, IS7, IS8

Supplementary Guidance

Waste Management 2015; Central Borders Business Park Tweedbank 2017

Recommendation by - Carlos Clarke (Lead Planning Officer) on 5th August 2021

This application seeks consent for a gym to operate from one unit (plus room in a former plant room on the first floor) of a former factory building now split into separate business units. The building is at the south-easterly end of Tweedside Park, set within its own grounds, with own roadway and parking areas.

Principle

The site is allocated as a 'strategic high amenity safeguarded business and industrial site' according to Policy ED1 of the Local Development Plan 2016. Policy ED1 distinguishes between 'strategic high amenity sites' and 'strategic business and industrial sites'. According to Table 1 which the policy refers to, the allocation is, in fact, a 'strategic business and industrial site'. On that basis, development on it requires to satisfy the following policy requirement:

(b) "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 Classes 4, 5 or 6 can be considered if clearly demonstrated as contributing to the efficient functioning of the allocated site".

The proposed use does not fall within Class 4, 5 or 6 and, therefore, conflicts with the first requirement. The related Simplified Planning Zone also proposes Class 4 for the site, which this proposal does not comply with. Furthermore, the Council's Central Borders Business Park Tweedbank SG further confirms the Council's policy position as regards the estate. It's 'Development Vision' is to develop a high quality business and industrial development that is a flagship development for the Central Borders. The Development Vision should, amongst other matters, take advantage of the new investment of the railway, create a setting that will encourage investment and benefit Tweedbank as a whole as well as the individual land uses. A gym will also not serve this aspiration directly but its particular contribution to the running of the estate, is accounted for below.

As regards whether the proposal could be considered an alternative use that would be compliant with ED1 as a use that would contribute to the efficient running of the allocated site, I would note the following:

1. A previous application for the building (18/00635/FUL) proposed a soft play centre, gym and café. At that time, the Economic Development Service voiced their clear support for the gym. Albeit they have not been consulted on this current application which now no longer proposes the soft play centre and café, policy circumstances are the same, and I am not aware of any site circumstances that would reduce the significance of the EDS's comments on the previous application.
2. The previous application was, however, ultimately refused due to conflict with ED1. As regards the gym, the officer's Report of Handling noted then that "while the gym may provide a complementary use, the fact one exists already (albeit currently offering a different type of facility) does count against the value of this consideration". The existing gym referred to is in the Tweedbank Sports Complex.
3. That application was then subject to review by the Local Review Body. Though the LRB upheld the appointed officer's decision, they did state the following "the Review Body did accept that the gym had a local demand and that there was support from Economic Development for this element. They also accepted that such as use, in itself, could have been considered to be in compliance with Policy ED1 in contributing to the efficient functioning of the Business Park. However, they also noted that the application was mixed use including a Children's Soft Play facility with associated cafe and that this could not be considered to contribute to efficient functioning".
4. Thus, the LRB appeared to accept the case for the gym as being compliant with ED1 in this particular circumstance, but did not approve the application because the gym formed part of a mixed application that included the soft play centre and café which more clearly failed ED1.
5. Ultimately, therefore, since policy and other circumstances are the same, it is only reasonable to conclude that this proposal for just the gym (the play centre and café no longer being proposed) be considered compliant with ED1 since it will comprise a use that the LRB have considered would contribute to the efficient functioning of the estate. The proposal, therefore, can now be considered to comply with ED1.

I would note that this unit occupies the adjacent unit within the same building to that considered under the previous application, but the unit is the same size. Also, though the proposal includes use of part of a former plant room above, that has not been active industrial floorspace, but comprised redundant plant, so the use of it in association with this proposal has no implications of note for the allocation.

A condition should regulate the use to the gym (and not others within Class 11), and refer specifically to the floorspace proposed for it within the plans. It would also reasonably permit the use to revert to its previously lawful use without a further planning application.

Amenity

There are no nearby residential properties so there should be no adverse effects in that regard. However, a gym can involve amplified music and speech. This could affect other businesses and have the indirect effect of undermining the suitability of other units as potential premises for other employment uses. I would accept that any business use could potentially conflict with another in the same building for a range of reasons, so a gym use may not be unusual in that regards. However, given that amplified music and speech is not a usual characteristic of a business unit, that may potentially put off other occupiers. I have discussed the potential for seeking a noise assessment with the Environmental Health Service, but the value of that would depend on the particular sensitivities of other occupiers which can, of course, change over time in any case. However, what is most notable is that the unit forms part of the larger building all within the same ownership. It would be entirely in the applicant's interests for one tenant not to undermine the viability of other units in the same building in their ownership, so for as long as the unit remains part of the overall building's ownership, there will be a degree of self-policing in that regard.

Therefore, I suggest the potential effects of any noise disrupting other occupiers can be reasonably mitigated by a condition maintaining this ownership link, and this has been discussed and agreed with the applicant.

Visual impact

No external alterations are proposed under this application

Services

It is understood existing water and drainage services are in place

Waste

The proposed use will generate less waste than a lawful use of the building for industrial purposes so waste storage is not a concern for this application.

Parking

The RPS raise no concerns with the parking arrangements

REASON FOR DECISION :

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved subject to conditions

- 1 The approved use shall be limited to a gymnasium, and there shall be no permitted change to any other use within Class 11 of the Use Classes (Scotland) Order 1997 (as amended) unless a planning application for the same has been submitted to and approved by the Planning Authority. In the event that the approved gym use ceases, the lawful use of the unit (Unit E) shall revert to its previous lawful use (Class 5) or any use permissible from that use under the General Permitted Development (Scotland) Order 1992 (as amended).
Reason: The development has been considered specifically with respect to the merits of the gym being operated from within the business park against Policy ED1 of the Local Development Plan 2016 and no other uses within Class 11 have been assessed

- 2 The approved gym use shall be limited to the floor area identified within Unit E and part of the upper floor former plant room as specified on the approved plans, and shall not occupy any other part of the building
Reason: To ensure compliance with Policy ED1 of the Local Development Plan 2016
- 3 For the duration of the approved gym use (until the unit reverts, where applicable, to its previously lawful use as permitted by Condition 1), the unit occupied by it (Unit E) shall not be sold separately from the remainder of the building
Reason: To minimise risk of conflict that may potentially arise between the consented gym use and other employment uses within the same building in the interests of maintaining the viability of this part of the business park

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