

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/01270/FUL

APPLICANT : Miss Lianne Wallace

AGENT :

DEVELOPMENT : Change of use from Industrial (Class 4,5,6) to a Functional Fitness Gym
(Class 11)

LOCATION: Unit B
Whinstone Mill
Netherdale Industrial Estate
Galashiels
Scottish Borders
TD1 3EY

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

One representation contends the unit is in a similar location to where the writer enquired about a gym and was advised not to submit an application.

Consultations

Contaminated Land Officer: The site previously operated as a Woollen Mill. The requirement for a full site assessment and potential remediation may not be practical or proportionate given the nature of the application and it is recommended that the applicant is advised of potential land contamination issues by way of an Informative Note.

Roads Planning Service: Had no objections in principle, but was unable to confirm acceptance until details of parking for customers were submitted. Sought a plan showing parking and information as to the maximum number of users anticipated at any one time. Information was subsequently received and the RPS is now content.

Community Council: No reply

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

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

SPG Waste Management 2015

Recommendation by - Carlos Clarke (Lead Planning Officer) on 7th October 2021

This application seeks consent to convert an industrial unit (Class 5) within the Netherdale Industrial Estate to a gym.

Principle

The site is within an area safeguarded by Policy ED1. It is a 'District' site within which Policy ED1 seeks the retention of employment uses (Classes 4-6). Other uses can be accepted if meeting criteria a-d, whereby criterion (a) and (b) are both met, as well as either criterion (c) or (d).

As regards criterion (a), this requires that the loss of business and industrial land does not prejudice existing and predicted long term requirements. The application contains no information to suggest it will not, though I note the applicant has stated that there was a lot of interest in the unit subject to this application, thus why she progressed to let it in advance of obtaining Planning Permission. I note, however, the applicant also contends that there are many empty industrial units throughout the Borders with considerable floorspace on the market just now. However, the Council's Business Development Officer has advised that "The Council recently had a vacancy for an industrial unit of 1,200sqft at Huddersfield Street, Galashiels, and we received interest from 14 businesses wanting workshop premises in this location - only one of which we could accommodate. There is significant demand for smaller units of 2,500 sqft or less, and there are no premises currently available, moreover these smaller units do not often come on the market. At present there are 5 larger premises available to businesses to let in the area, including Tweedbank, but all are over 3,500 sqft." This unit is under 2,500 sqft and, therefore, is considered to be a type of unit that is in high demand and in short supply. The loss of this unit to a use other than Class 4, 5 or 6 is, therefore, in conflict with criterion (a) since it will incrementally undermine the provision of existing requirements for employment floorspace.

As regards criterion (b), this allows for an alternative use to be accepted that offers significant benefits to the surrounding area and community that outweigh the need to retain it in business and industrial use. The applicant has explained her circumstances, which comprise developing the business after having been made redundant, and having invested in the unit to develop what is a successful enterprise that would stand out from others and be completely inclusive, for which there is huge demand. The business will create potential for further employment, including coaches/personal trainers, therapist, cleaner and potentially a manager. This unit was chosen as it is ideal for the business's requirements and follows a search over years for a suitable property, and the unit now proposed is perfect for the business

It is recognised that the business is likely to have long term economic and community value and that it will contribute positively as regards criterion (b) requirements. It will bring with it potential employment opportunities (perhaps equalling or exceeding that of a Class 4-6 use), and the suitability of an industrial space for the proposed use is fully understood. However, albeit a gym use will have specific requirements that can limit the suitability of certain premises, it need not be sited in an industrial unit, whereas most industrial and storage and distribution uses (certainly those industrial uses within Class 5) are entirely suited to few other types of location other than an industrial estate. Accounting for the demand currently for small industrial units it is not considered that the benefits of this business in this location justifies the loss of floorspace that is most suited to industrial uses. Also, whereas it is recognised that this particular business may meet a specific demand, any consent granted for this development would be for a gym use, and not for a particular business. It is the use for which consent would be granted, not this particular enterprise, so its particular business model and benefits must be accounted for in that context. Criterion (b) is not conclusively satisfied.

Criterion (c) requires there be a constraint on site such that it has no reasonable prospect of becoming marketable for business and industrial development in the future. That is not the case here. Criterion (c) is not satisfied

Criterion (d) allows for a more mixed use pattern to be considered acceptable where the predominant land uses have changed owing to previous exceptions to policy. In this case, I would acknowledge a gym use to the south-east has recently been consented (21/01182/FUL). However, that replaced a children's nursery, itself forming part of an original play centre, café and nursery use for which the building was built. It was never in Classes 4-6, as the building replaced a retail use that had existed on the same site. I also note the

adjacent unit is in a gym use, however, that is unlawful, and is currently being investigated by our Enforcement Service. Other uses within the estate are predominantly within Classes 4-6. The characteristics of the estate do not justify a departure from these classes. Therefore, Criterion (d) is not satisfied.

Policy ED1 is, not, therefore, complied with. I recognise the personal circumstances of the applicant and facilitating the growth of this business would certainly be the preferred outcome of an application. However, the conflict with Policy ED1 is clear, and it is not sustainable to lose floorspace dedicated to Classes 4-6 to other uses outwith these classes that are capable of being accommodated elsewhere. While the difficulty in finding other premises is appreciated, that is not sufficient reason in itself to override Policy ED1. The applicant has explained her personal circumstances and the investment she has made in the unit, and those are to be acknowledged. However, unfortunately, these circumstances are not sufficient to override the requirements of Policy ED1 given the harm that the incremental loss of industrial floorspace can cause to other businesses for which these units have been allocated.

Other ED1 requirements are accounted for in the remainder of this assessment below.

Land use conflict

A gym use can generate noise from amplified music and speech and vibration and noise from dropped weights that could undermine adjacent uses. However, given the building is a solid structure, previously (and still capable of being) used for uncontrolled general industrial operations, located within an estate acceptable for Class 5 and other commercial uses, the noise implications for other businesses are not a significant concern. No other business operator has flagged up any concerns in this regard.

Flood risk

Though our Flood Officer was not consulted on this application, the site of which falls within SEPA's indicative flood risk area, I would note that (from her comments on the application for a gym referred to above), Netherdale is protected by the flood protection scheme so flood risk is not a concern.

Services

It is understood that mains services exist

Waste

Given the lawful industrial use of the premises, the level of waste associated with a gym is likely to be less. Therefore, no control on bin storage is considered necessary.

Parking

In response to the RPS's request for more information, the applicant has identified the maximum number of users and a parking area associated with the unit to the rear. The RPS is content with the level of parking available. The level of parking the gym needs is somewhere between what Class 4 and 5 uses would require and, given these can operate now without planning consent, there is no need for regulation of the parking provision by planning condition

Contamination

If approved, an informative note can address the CLO's advice.

Visual impact

No alterations are proposed to the exterior of the building, so there are no concerns in this regard

Amenity

There are no nearby residential properties likely to be at risk of noise. Any amplified/music speech affecting distant residential neighbours would best fall within the separate regulation remit of Environmental Health, in this particular case.

REASON FOR DECISION :

The development would be contrary to Policy ED1 of the Local Development Plan 2016 in that it would result in the loss of floorspace allocated for Classes 4-6 and the exception criteria within the policy are not satisfied. The loss of floorspace allocated for Classes 4-6 will have an adverse impact on the development of businesses within these Classes seeking to locate within the industrial estate. Other material considerations are not sufficient to outweigh the harm resulting from the incremental loss of allocated floorspace

Recommendation: Refused

- 1 The development would be contrary to Policy ED1 of the Local Development Plan 2016 in that it would result in the loss of floorspace allocated for Classes 4-6 and the exception criteria within the policy are not satisfied. The loss of floorspace allocated for Classes 4-6 will have an adverse impact on the development of businesses within these Classes seeking to locate within the industrial estate. Other material considerations are not sufficient to outweigh the harm resulting from the incremental loss of allocated floorspace

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