

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 22/00127/FUL

APPLICANT : Ms Daina McFarlane

AGENT :

DEVELOPMENT : Change of use from Industrial (Class 4,5,6) to Fitness Studio (Class 11)
(retrospective)

LOCATION: Unit C
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
Front elevation	Photos	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations have been submitted in response to the application, though the application itself is accompanied by a number of supporting letters from members of the gym, in addition to a letter from the applicant.

Consultations

Environmental Health Service: No reply

Roads Planning Service: Have no objections to this proposal. As the parking levels associated with a Class 11 use are within the levels of the current class use, they will not require any additional information regarding this

Community Council: No reply

Flood Protection Officer: SEPA mapping indicates that the site is at risk from a flood event with a return period of 1 in 200 years. Although the site is shown at flood risk within SEPA's Mapping, in 2014 the Galashiels Flood Prevention Scheme was completed, providing a 1 in 200 year level of protection from the Gala Water to the Netherdale area, including this site. Furthermore, this change of use will not have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems. Therefore, the FPO has no objection

PLANNING CONSIDERATIONS AND POLICIES:

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Local Development Plan 2016

PMD2, PMD3, ED1, HD3, IS7, IS8, IS9, IS13

SPG Waste Management 2015

Recommendation by - Carlos Clarke (Lead Planning Officer) on 1st March 2022

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 it is material that an application to retrospectively use a Class 5 unit as a gym within this block (Unit B - 21/01270/FUL) was considered to fail this criterion. This was because the Council's Business Development Officer advised then that such units are in high demand and 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 supporting letters in this regard are noted, and the growing community benefits of the use are understood. However, these are not sufficient to outweigh the loss of another industrial unit to a use that could be sited within a town centre or other non-safeguarded site. While fitness uses benefit from industrial units, they do not need them. Industrial and storage/distribution uses do, however, essentially require such units. Criterion (b) is not 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. There are no known issues with this unit and no known information to conclude that previous marketing efforts were sufficient to rule out the prospect of a compliant use. It is understood the unit was vacant during the Covid lockdown, but that is to be expected. 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. This was not considered to be satisfied under 21/01270/FUL and this remains the case.

Policy ED1 is, not, therefore, complied with. I acknowledge the letters of support, and understand the implications a refusal may have on the applicant. The development of the business is to be supported generally, and ideally it would be on this occasion, but LDP policy requires that, on safeguarded sites, the primary obligation is to maintain an adequate supply of employment land for Classes 4-6, and that is overriding. I also acknowledge that the application for Unit B (21/01270/FUL) is subject to Local Review in a few weeks. However, the outcome of that will not justify this proposal, as it must be treated on its own merits.

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

Land use conflict

A gym use can generate noise but, in this location, this does not raise notable concerns, particularly given the lawful use. The EHS has not raised concerns. If approved, however, a condition would reasonably

restrict the use to that proposed, as other uses within Class 11 would require further scrutiny on various matters.

Flood risk

As the FPO notes, 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

The RPS raises no concerns.

Contamination

The CLO has not been consulted though, as per 21/01270/FUL, if approved, an informative can reflect the CLO's advice for that application (given the similarities)

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

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