

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 23/00524/FUL

APPLICANT : Mr Ewan Irvine

AGENT : Gain Planning Services

DEVELOPMENT : Change of use of from Class 4 business to Class 6 plant hire and builders
yard (retrospective)

LOCATION: White Bridge Park
Kingsmeadows Road
Peebles
Scottish Borders
EH45 9DH

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1 of 9	Location Plan	Refused
2 of 9	Location Plan	Refused
3 of 9	Proposed Site Plan	Refused
4 of 9	Proposed Site Plan	Refused
5 of 9	Proposed Site Plan	Refused
6 of 9	Proposed Sections	Refused
7 of 9	Landscaping Plan	Refused
8 of 9 [10 sheets]	Photos	Refused
9 of 9	Photos	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations received.

Consultation responses were received from: Roads - no objection; Ecology Officer - objection; Landscape Architect - objection and, after the submission of revised information, continued objection; Flood Risk Officer - no objection; Scottish Forestry - no objection. It is clear that woodland has been removed and no Felling Permission application has been applied for. However, Scottish Forestry cannot be sure that the felling was not covered by an exemption; Peebles Civic Society - no objection but note regret about the retrospective nature of the application.

PLANNING CONSIDERATIONS AND POLICIES:

In determining the application, the following policies and guidance were taken into consideration:

NPF4

Policy 1 - Tackling the climate and nature crises

Policy 2 - Climate mitigation and adaptation
Policy 3 - Biodiversity
Policy 4 - Natural places
Policy 6 - Forestry, woodlands and trees
Policy 9 - Brownfield, vacant and derelict land and empty buildings
Policy 14 - Design, quality and place
Policy 22 - Flood risk and water management
Policy 26 - Business and industry
Policy 29 - Rural development

Scottish Borders Local Development Plan 2016

PMD1 - Sustainability
PMD2 - Quality standards
PMD4 - Development outwith development boundaries
ED1 - Protection of business and industrial land
ED7 - Business, tourism and leisure development in the countryside
EP1 - International nature conservation sites and protected species
EP2 - National nature conservation sites and protected species
EP3 - Local biodiversity
EP5 - Special landscape areas [Tweed Valley]
EP13 - Trees, woodlands and hedgerows
EP15 - Development affecting the water environment
IS7 - Parking provision and standards
IS8 - Flooding
IS9 - Waste water treatment standards and sustainable urban drainage

Proposed Scottish Borders Local Development Plan as modified

PMD1 - Sustainability
PMD2 - Quality standards
PMD4 - Development adjoining development boundaries
ED1 - Protection of business and industrial land
ED7 - Business, tourism and leisure development in the countryside
EP1 - International nature conservation sites and protected species
EP2 - National nature conservation sites and protected species
EP3 - Local biodiversity and geodiversity
EP5 - Special landscape areas [Tweed Valley]
EP13 - Trees, woodlands and hedgerows
EP15 - Development affecting the water environment
IS7 - Parking provision and standards
IS8 - Flooding
IS9 - Waste water treatment standards and sustainable urban drainage

Supplementary Planning Guidance

Biodiversity
Local landscape designations
Placemaking and design
Sustainable urban drainage systems
Trees and development
Waste management

Revised drawings were submitted during the consideration of this application. The applicant has submitted supporting information and I have had regard to that.

Recommendation by - Ranald Dods (Planning Officer) on 2nd July 2024

Site and proposal

The application site lies to the north of the B7062 and is outwith the settlement envelope of Peebles as defined in the LDP. This site lies to the east of Cavalry Park and is within the Tweed Valley special landscape area. It is not allocated in the LDP for industrial use. This is also the case for the emerging LDP,

where the site will remain outwith the development boundary and within a special landscape area. Cavalry Park is defined in the LDP as a strategic high amenity site (Cavalry Park, zEL2) for class 4 or compatible uses. Part of the current application site lies within the site boundary of Cavalry Park.

Planning history

There is some relevant planning history associated with this site. That is summarised below.

T174/92, outline planning permission for three houses, refused 9 Nov 1992. One of the reasons for refusal was the proposed development would be poorly related to Cavalry Park and would adversely affect the opportunity for retaining an effective visual screen along the northern and eastern boundaries of the industrial site.

07/00760/OUT, erection of workshop and office unit, granted 27 Aug 07. That permission was granted contrary to recommendation and was subject to conditions, the first of which restricted the use of the building to class 4 (light industry).

Following the grant of the above, 07/02125/FUL was submitted for the erection of workshop and office unit for use by a joinery company. That was granted, subject to conditions, on 10 Apr 08 and, in determining the application, it was accepted that as this site is at one of the entries to Peebles, the visual impact was an important factor. It was also set out that the woodland area to the rear of the site runs along the bank of the River Tweed and there is a footway running through it and into the site. The woodland area was noted as being important both in ecological terms and for recreation. Of the conditions imposed, condition 12 restricted the use to class 4 (light industry). Additionally, condition 5 permits parking of vehicles only associated with the development which was granted and condition 7 prohibits open storage within the site.

As the applicant wished to install a cement silo plant and bulk storage bays on the site, application 22/01251/CLPU was submitted to establish whether that development would be lawful. That application was withdrawn on 7 Sep 22.

In addition to the above, the south western corner of the application site was part of the following permissions:

05/01529/FUL, construction of access road with associated drainage and street lighting, installation of utility services, car parking, flood storage works and landscaping to support second phase of development, granted 12 Dec 05.

07/01467/FUL, erection of new units for office and business use, granted 3 Oct 07

Principle

Whilst the principle of a building on the site has been established, that was accepted on the basis that it be restricted to only class 4 (light industry) and that there be no open storage on the site. This was on the basis that the visual quality of the area was not adversely affected. The application is made in retrospect to change the use of the building and create a builder's yard and plant hire business, within class 6 (storage and distribution). Whilst a change from class 4 to class 6 is permitted development, that is limited to the resultant development being 235sqm. This proposal is in the region of 6000sqm and therefore exceeds the permitted development limit. In any event, the condition attached to 07/02125/FUL effectively removed that permitted development right.

As will be set out below, the proposal fails to accord with statutory development plan policies and the principle cannot be accepted.

Assessment

Despite the condition attached to the planning permission for the building, the applicant states they were unaware that permission was required for the development. The site is within the Tweed Valley special landscape area and the majority of it was, before the unauthorised works were undertaken, greenfield land. As evinced from the planning history, the development of this site has been acknowledged as having the potential to have a negative impact on the visual quality of the area. Whilst the development of a light industry unit was accepted by Members (07/00760/OUT), the subsequent application (07/02125/FUL) was limited to the building with a small parking area and the northern corner of the site boundary was some 39m from the building. Landscaping was required by condition in order to help integrate the development with

the wider landscape and, importantly, the stand of trees extending approximately 120m north west towards the Tweed and those to the west of the building were outwith the site boundary and not affected by the development. The trees have been recognised, since development of the site was first proposed in 1992, as providing an effective visual screen along the eastern boundary of the industrial site.

With the development granted under 07/02125/FUL having been built, the trees were retained and the building integrated into the landscape setting. The property was sold in or around July 2016 and, since that date, trees have been removed to both the north west and the west of the building. The resultant ground has been transformed into a builder's yard and vehicle and plant storage area associated with the plant hire business. The 1m timber fence adjacent to the road has been removed, industrial fencing approximately 1.8m high has been erected in its place together with gates of a similar height, the car parking area has been extended to the east of the building and two shipping containers have been sited immediately adjacent to the road. To the west of the building, a substantial area of trees has been removed and a plant and material storage area created. The effect is that the building and site, rather than being integrated into the landscape, is now isolated and, together with the builder's yard and plant storage area, appears a discordant feature in the landscape which does not respect the character or amenity of the surrounding area and does not form an attractive entrance to the town.

The site is within the countryside, albeit adjacent to the settlement envelope of Peebles, with the land being designated a special landscape area and not allocated for industrial use in the adopted or emerging LDP. The nature and scale of activity associated with a builder's yard and plant hire business is not one which is appropriate to the rural character of the area. Those developments are instead reasonably suited to sites within the settlement envelope. Granting permission would, in effect, extend the development envelope beyond that which has been allowed within the adopted LDP and also the emerging LDP, the latter of which is at an extremely advanced stage. The applicant has not advanced any economic or operational need for this location nor has it been demonstrated that there are no suitable alternatives allocated in the LDP or identified in the employment land audit.

Even accounting for the local employment which this development offers, the planning balance is not tipped in its favour due to the adverse effect on the integrity and quality of the area and the environment and its non-compliance with statutory development plan policies. The development is contrary to NPF4 policies 4; 9; 14; 26 and; 29, together with LDP policies PMD2; PMD4; ED1 and; ED7.

Ecology, trees and landscaping

The Ecology Officer objected to the proposal and stated that due to the proximity to the River Tweed SAC, the precautionary principle applies. It was noted that as the site is used as a hire & builders yard, details of the proposed drainage strategy and proposed measures to manage soil/gravel run-off should be submitted to ensure that the land is not drained towards the river and no sediment or loose building materials reach the Tweed and where necessary, appropriate SUDS feature are installed to avoid any adverse impacts on the SAC. This would ensure the proposal meets the requirements of EP1 and NPF4 policy 4.

Protected species, which could have been located within the woodland, were not accounted for by the applicant. The area of felled woodland is approximately 0.2ha and the trees which were felled were mostly broadleaves. The proposal as it has been implemented, does not meet the requirements of NPF4 policy 6 and no mitigation has been proposed. The Ecology Officer noted that as the site is not identified as a business/industrial site in the LDP it could be argued that the development would not be sustainable economic growth. It was also noted that the proposal does not meet the requirements of NPF4 policy 3 as it does not include appropriate measures to conserve enhance and restore biodiversity. Since an established green network has been reduced as a result of the development, it also currently does the opposite of the policy requirement to build resilience by enhancing and strengthening nature networks. The submitted location plan shows that the other land owned by the applicant is the already wooded riparian strip along the Tweed. Due to this and the nature of the development, the Ecology Officer could not see how appropriate compensation and enhancements could be achieved. In addition, the remaining trees outwith the site to the west are also likely at risk of being damaged due to vehicles being parked and materials being stored within their root protection areas. This will likely cause the remaining green network between the river and Kingsmeadows road to deteriorate.

As such, the Ecology Officer considered the development to be contrary to NPF policy 4 and LDP policy EP13. I have no reason to question that assessment.

The Landscape Architect assessed the proposals and an objection was made. It was noted that the building granted under 07/02125/FUL was completed in a relatively subtle colour with a simple scheme of grass to the soft areas around the east, south and west section of the site. Immediately to the west a curved drystone wall (marking the edge of the settlement boundary) previously enclosed a block of woodland that acted as a screen between the site and adjacent Cavalry Park. That woodland, together with the drystone wall, has been removed and the expanded site turned into a plant storage yard, with no effort to create and degree of screening of the site from the adjacent public road. The proposed development is already in place, with containers located between the existing shed and the southern boundary and plant and materials occupying all of the available space, with the exception of the circulation to allow access and the functioning of the yard. In landscape and visual terms, the proposal is over-development and has involved the removal of a substantial block of structure woodland. I have no reason to question that assessment.

The Landscape Architect suggested measures to maintain the integrity of the immediate area and the approach to Peebles along the adjacent road, including: no development to the strip between the southern site boundary and the existing building (approximately 2.5 - 3m width) but a planting scheme should be established that would help to create an appropriate edge to the development along the public road; creating a 3m planted strip along the whole of the southern boundary, planting should be undertaken in the grass area to the east of the existing building to improve the amenity when approaching from the east along the public road; to compensate for the loss of woodland structure, the area to the western edge of the site should be replanted with trees; native hedge planting along the whole of the eastern boundary should be undertaken to provide additional screening, above and beyond that offered by the drystone wall, to the storage yard. Revised drawings were submitted, including a proposed site plan with "structure landscaping" indicated on it. As those areas are outwith the application site and on land which is not controlled by the applicant, they could not be implemented were the application to be granted. The proposed palisade fence with hedging within the site was not considered an acceptable solution. Having assessed the additional information, the Landscape Architect did not withdraw the objection.

Impact of special landscape area

As set out above, the site lies within the Tweed Valley special landscape area. Prior to the development under consideration taking place, the building and site were well integrated into the landscape, particularly when approaching from the east where the building was backed by semi-mature trees between it and Cavalry Park. The removal of those trees, siting of the shipping containers and the creation of the builder's yard / plant storage area means that the site is no longer integrated into the landscape and is visually intrusive. This is detrimental to the qualities of the special landscape area and has a negative visual impact on the area. The economic benefits of the development do not tip the balance in favour of the proposal. It is therefore contrary to NPF4 policy 4 and LDP policy EP5.

Conclusion

The proposed change of use from class 4 (light industry) to class 6 (storage and distribution) would be unjustified development outwith an industrial area and within the countryside of a use which is more suited to a site within a settlement. The development has had a negative impact on the landscape setting of the Tweed Valley special landscape area and, adopting the precautionary principle, is likely to have a negative effect on ecology. The applicant has not advanced any reason to set aside the terms of the development plan.

REASON FOR DECISION :

The proposal would be contrary to policies 4, 6, 9, 14, 26 and 29 of NPF4 and policies PMD2, PMD4, ED1, ED7, EP1, EP2, EP3, EP12 and EP13 of the LDP. These conflicts with the development plan are not overridden by other material considerations.

Recommendation: Refused

- 1 The site is greenfield within the countryside on land designated as a special landscape area. The land is not allocated for storage and distribution purposes nor is it supported explicitly by policies within the LDP. The development is contrary to National Planning Framework 4 policies 4 and 9 and policies PMD2, PMD4 and policy EP5 of the Local Development Plan 2016.

- 2 The development is contrary to National Planning Framework 4 policies 26 and 29 and policies ED1 and ED7 of the Local Development Plan 2016 in that the applicant has not demonstrated that there are no suitable alternatives allocated within the LDP nor has it been demonstrated that there are any overriding economic and/or operational need for the proposed Class 6 operation to be located in this particular countryside location. This conflict with the development plan is not overridden by other material considerations.
- 3 The proposal has introduced a storage and distribution use into a rural setting and has altered fundamentally the character of the area and would be detrimental to the amenity of the surrounding area. The development would not, therefore, be consistent with the six qualities of successful place set out in National Planning Framework 4 policy 14. The development would be contrary to policy PMD2 of the Local Development Plan 2016 in that the development is not compatible with nor does it respect the character of the surrounding area. These conflicts with the development plan are not overridden by other material considerations.
- 4 The development is contrary to National Planning Framework 4 policy 6 and policies EP12 and EP13 of the Local Development Plan 2016 in that a significant area of woodland resource has been removed and no account was taken of trees within or immediately adjacent the site. The loss of the woodland resource has had a seriously negative effect on the landscape, ecological and shelter value of the site and the associated Greenspace Network. The applicant has failed to demonstrate that the development would result in public benefits which would outweigh the loss of this woodland resource. No overriding case for the development as proposed has been substantiated. These conflicts with the development plan are not overridden by other material considerations.
- 5 The development is contrary to the terms of National Planning Framework 4 policy 4 and policies EP1, EP2 and EP3 of the Local Development Plan 2016 in that the applicant has failed to prove that the development would not have an adverse effect on protected species which may be present on the site. These conflicts with the development plan are not overridden by other material considerations.

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