

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**26 JUNE 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00087/FUL
<b>OFFICER:</b>	Stuart Herkes
<b>WARD:</b>	Tweeddale West
<b>PROPOSAL:</b>	Erection of Class 6 storage and distribution buildings, associated Class 5 use and erection of ancillary dwellinghouse and associated development and landscaping works
<b>SITE:</b>	Land North East Of 3 The Old Creamery, Dolphinton
<b>APPLICANT:</b>	Mr Alastair Brown
<b>AGENT:</b>	Ironside Farrar Ltd

**CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE**

Planning Application 17/00087/FUL has been referred to the Planning and Building Standards Committee for determination under Section 43A(6) of the Town and Country Planning (Scotland) Act 1997. Its referral is supported by five Members on the grounds that: *“(t)his application is of concern to the public interest of the area as it covers a wide range of planning policies and other matters considered important by applicant and objector alike”*.

**SITE DESCRIPTION**

The site is an area of open agricultural land, less than 2ha in extent, which lies around 250m to the northwest of Dolphinton and to the immediate south of the A702. There is an agricultural access directly from the A702 at its northern extremity.

The site is readily visible from the A702. It is mostly level, but with small natural rise toward the northeast of the site.

There are some stands of trees to the east and west of the site, and a couple of trees along the road boundary with the A702. However, the site and surrounding area are otherwise generally open in character.

Along with a larger area of land to the south and west, the site lies within the provisional Local Biodiversity Site (pLBS) ‘Ingraston Moss’. It is also within the near vicinity of the Pentland Hills Special Landscape Area (SLA), which lies on the opposite (northern) side of the A702; and is linked by a shared ditch to the Dolphinton – West Linton Fens and Grassland Site of Special Scientific Interest (SSSI), which lies to the south. The site is within a carbon-rich soils area.

## PROPOSED DEVELOPMENT

Full planning permission is sought for a new purpose-built business premises for a mixed employment (Class 5 and Class 6) use to accommodate of the applicant's two existing businesses which currently operate from the Dolphinton area. A new dwellinghouse is also proposed in connection with the business.

The proposed new business premises would consist of: (i) a loading bay shed, to accommodate the cement silo and water container and provide cover to load cement-mixer lorries; (ii) a secure garage and vehicle store, to accommodate and maintain vehicles and equipment; including accommodation of a biomass woodchip boiler and fuel store; (iii) secure materials storage sheds; and (iv) an external area for the storage and manufacture of concrete blocks. These buildings would be attached to one another, forming a single range of buildings that would be located within the centre of the site. The highest structure, the materials store building, would be just under 12m in its overall height above the finished floor level of the sheds.

The new dwellinghouse, which would be located immediately to the south of the new business premises, is proposed to be ancillary to the operation of the business use of the site, and would include office accommodation for the businesses' administration.

During the consideration of the application, revisions have been made to introduce a more significant landscaping treatment for the site to that which was originally proposed. This would involve tree planting on land outwith the application site, which the applicant has advised he would be able to secure as part of his purchase of the application site from the current land owner. The landscape works include the formation of a bund wall to help screen views of the operational yard area from the nearby A702.

The proposal has been assessed as falling below the parameters that would have required the formal submission of an Environmental Impact Assessment (EIA). No statutory consultees have requested that the proposal should be supported by an EIA.

## PLANNING HISTORY

The site has no previous planning history.

## REPRESENTATION SUMMARY

Forty representations have been received in support of the application; those that set out reasons for support do so on the following grounds:

- **Residential Amenity and Road Safety Benefits to Dolphinton** - Relocation of Border Mix from its current premises would benefit the residential amenity of surrounding properties (principally through reduced noise and traffic) and would improve road safety on the local road, and at the nearby road junction with the A702 (especially in the event that Garvald Quarry were to be re-activated in the near future, which would have potential to generate greater numbers of larger vehicles on the local road and junction, taking access through Dolphinton);
- **Safeguard Future of an Established Local Business and Employer** - Operation from the application site would allow an established local business to continue operating within the local area, continue to serve an established

customer-base, continue to employ people in the local area, and contribute to the local economy. Refusal would jeopardise the business's future;

- **Potential for Economic, Employment and Environmental Benefits to the area** - Operation from the application site would allow the business to expand; overcome existing operational constraints and leasing arrangements within their existing premises; employ more people; contribute more strongly to the local economy, make greater use of local businesses and services; become more operationally efficient and productive; and realise environmental benefits; and
- **Satisfactory Amenity and Environmental Impacts** - Proposed location is well-considered with respect to the protection of the amenity of the surrounding area, including the local landscape and the amenity of local residents. The site benefits from some screening; and has potential for good site access.

Fifteen representations have been received in objection to the application (an additional sixteenth representation was withdrawn by the objector and is not considered below). These object to the proposals on the following grounds:

- **Contrary to Local Development Plan** – specifically ED7, HD2, PMD4 and PMD2 in that the site is in the countryside, is not allocated for any industrial use; and there is no operational requirement for the proposal to be sited on this specific rural site. There is no operational need for a house to be located on the site in the service of the applicant's business operations. The proposed use would be more appropriately accommodated on an industrial estate where it would be in character with surrounding uses. The proposal is not sympathetic to the amenity and environment of this greenfield site or the rural character of the site and surrounding area;
- **Detrimental to Environment and Natural Heritage Resources** – including impacts upon designated and sensitive natural heritage resources at the site and within the near vicinity; impacts upon trees; potential for air, soil and water course pollution; potential to affect a significantly wider area than the site. The application should have been supported by an EIA;
- **Detrimental to Landscape and Visual Amenity** – the scale, height and massing of the buildings would be inappropriate in landscape and visual terms; these would constitute an eyesore within local area being unsympathetic and out-of-character with this rural area and farm land. The applicant proposes an inadequate landscaping treatment for a relatively open site;
- **Detrimental to Residential Amenity** – noise nuisance; air quality and dust nuisance; light pollution; and loss of privacy;
- **Detrimental to Road Safety** – increased traffic, particularly HGVs; inadequate site access onto a busy and fast trunk road. It is questioned whether proper account and consideration has been given to police, court and accident reports relating to this stretch of the A702 road, which is seen as particularly dangerous;
- **Detrimental to Drainage, Water Environment and Soils** – particularly Ingraston Moss; soil type advised to be inadequate for the accommodation of this type of proposal. There is potential for increased flooding on a poorly drained site, in terms of interaction with soil-types; impacts on carbon-rich soils, have not been fully accounted for;
- **Detrimental to Water Supply;**
- **Inadequate or Contradictory Advice in Supporting Information** – inadequate or contradictory information has been given with respect to the selection of the

site and with respect to the proposed operation; no account should be taken of Applicant's concerns with respect to competition. There has been inadequate exploration of potential to use other sites, such as brownfield land within surrounding area (PAN 60 encourages reuse of brownfield land ahead of the development of greenfield sites); it is advised that there are sites close by in South Lanarkshire, which are available, but which have not been considered by the Applicant.

- **No Operational Need for a House On-Site** - Other alternative security measures might be considered ahead of the Applicant living on site. The Applicant's existing house is only half a mile from the site. It is considered that the proposal could be a 'back door' method of securing a new house in the countryside, were none of the associated business proposals to be developed out;
- **Promotion Within the Area of Further Development Inappropriate to a Rural Area** - particularly industrial, exaggerating the impacts of the current proposal; and negatively impacting the approach to Dolphinton village;
- **Improper Notification of Application** – advised that 'adjoining' neighbours have not been directly informed;
- **Inadequate Consideration of Potential Future Uses of Site** – it is unclear how the site might be used if the business were to move on from the site; while the bespoke nature of what would be accommodated may not prove particularly flexible when it comes to reuse by any subsequent occupier;
- **Insufficient Economic Effect to Justify Support for Development** – the proposal would not create sufficient jobs and/or generate any meaningful investment in the local economy to justify the development of the site contrary to planning policy; impacts on landscape and area would also be detrimental to tourist economy.
- **Human Health Risks**
- **Flood Risks**
- **Outdoor Access** - Impacts upon the setting and views from several paths and rights of way within the surrounding area.

Three general comments have also been received (two from one of the objectors), which express concerns with respect to the following matters:

- Transport Scotland's response – specifically the agency's understanding of planning policy with respect to the use of the site;
- The future use of the applicant's existing business premises at Dolphinton – it is requested that the industrial use of the existing site should be removed if the application is approved; and
- The potential to have accommodated the operation at Garvald Quarry – contrary to the view expressed by the applicant, the Quarry is not understood to be re-opening imminently, and it is suggested that the applicant has ignored or downplayed potential to continue operating from the quarry site, or even to relocate the businesses to the quarry site as an alternative to the current proposal.

## **APPLICANTS' SUPPORTING INFORMATION**

The application is supported by the following documents:

- Planning Supporting Statement;
- Supplementary Supporting Statement – House Requirement;
- Supplementary Statement – Air Quality, Dust Management, Noise and Lighting; and
- Preliminary Ecological Assessment;
- A letter of support from Glenrath Farms forwarded by the agent;
- Letters from local land owners advising of their correspondence with the Applicant with respect to his interest in securing land from them; and
- 3D visualisations of the site.
- Supplementary Statement on Carbon Rich Soils and Alternative Site Search

These documents are all available for viewing in full on the planning pages of the Council's website.

With respect to the supporting case set out within these documents, it is advised that the applicant currently operates two businesses within the Dolphinton area.

The first of these, and longest established, is Border Mix Ltd. This is a specialist concrete supplier that services local public, commercial, farm and private customers. It currently operates from a leased yard within the Development Boundary at Dolphinton. This is surrounded by residential properties, including the applicant's own family home. It is advised that Border Mix currently operates the site 7 days a week, and 24 hours a day. Given the presence of a number of larger rival concrete contractors based in the wider area to the west of Dolphinton, in Lanarkshire and West Lothian, the company generally considers that its location at Dolphinton is integral to its service of markets in closer proximity to it than its competitors, including within the wider area towards both Peebles and Edinburgh.

The second business operated by the applicant is The Big Block Company Ltd, which operates from leased ground at Garvald Quarry. This is a more recent business venture, which manufactures and supplies a range of large, interlocking concrete blocks for use in retaining walls, storage and containment facilities, landscaping, and flood defences. It is advised that the current lease of land at the quarry is due to expire shortly, at which point it is anticipated quarrying operations would be recommenced.

The two businesses are advised to be closely interconnected in their servicing and land use requirements, and between them employ six people: specifically the applicant, three full-time drivers, a casual labourer and one part-time administrative assistant.

The applicant advises that the expansion of his businesses is currently being constrained by the limited size of Border Mix's yard, and by ongoing concerns with respect to the continued use of the quarry land by The Big Block Company. He anticipates that a new facility to accommodate both businesses on one site would allow the businesses to expand to their potential, with a commensurate expansion in its workforce; which in the short-term, is anticipated to result in an increase of two new jobs and a requirement for the admin assistant to be employed on a full-time basis.

It is advised that the removal of Border Mix from its current site would also benefit the amenity of surrounding residential properties and would improve traffic movement, since

vehicles at present require to make use of both the yard and road to manoeuvre. It is advised that there would be greater conflict in terms of traffic movement at the site in the event of the re-activation of the quarry, which would increase the number of larger vehicles operating on this local road, in addition to the applicant's own vehicles, were these to continue operating from the existing site.

With respect to the identification of the application site as the most appropriate location for the proposed new centre of operations for his businesses, the applicant advises that his search criteria were that the new site should:

- be in Dolphinton and on the A702, to service and conserve the businesses' established customer-base;
- be of a scale to meet the applicant's business requirements, including land sufficient to accommodate the operation and expansion of both businesses, along with a new dwellinghouse for on-site security (which the Applicant sees as essential to his operations);
- have direct access to the strategic road network, avoiding current manoeuvring constraints at and between the existing sites;
- be isolated from established residential areas so as not to have any unacceptable impacts upon the amenity of any neighbouring dwellings; and
- be available for the proposed uses, essentially by being available for transfer to the applicant at a cost reflective of the intended use, which can be absorbed by the business.

The applicant also advises that alternative sites were considered, including existing and allocated industrial sites within West Linton (Deanfoot Road), Peebles (South Park) and Biggar, which have all been discounted in favour of the current application site. The various sites identified have been discounted for a range of reasons, including lack of interest in selling on the part of one land owner; difficulties relating to road access in another case; and potential to conflict with the base of operations of other rival concrete suppliers.

The applicant advises that there is no suitable site within the Development Boundary at Dolphinton or elsewhere within the local area, and that the businesses' location on a rural site is itself appropriate, because the businesses primarily support customers who are themselves rural businesses.

In response to the Planning Department's concern that the applicant had not evidenced a sufficiently thorough investigation into the possibility of accommodating the business proposal on an existing brownfield site within the local area, the applicant has provided further details of a search identifying 13 alternative named sites, mostly attributed to farms and mostly to the north and east of Dolphinton. An accompanying table advises why each of the alternative sites has been discarded by the applicant. Reasons for their elimination include: (i) insufficient size, in the case of two sites; (ii) the lack of direct access to the strategic road network in the case of one site; (iii) insufficient isolation from surrounding residential properties, in the case of five sites; and (iv) the lack of availability for the proposed use, in the case of ten sites. The application site is the only site so assessed, which meets all of the applicant's identified search criteria. Some correspondence relating to these enquiries is also included within the supporting details.

Among the sites which are identified as being unavailable for uptake, is the Applicant's existing leased premises at Garvald Quarry. The quarry operators advise in an attached email of 01 June 2017, that this land would be required by them: "*in future for quarry plant and stocks for the long term*". Beyond this, they do not commit to selling any land at the quarry until such time as it has been established how any subsequent re-activation of the quarry operation would be accommodated in future.

With respect to the specific need for a new dwellinghouse on the site, the applicant considers that this is justified and/or required for the following reasons:

- the applicant considers that the dwellinghouse is required operationally by a business that is itself appropriate to a countryside location, largely as a consequence of the business' service of rural businesses;
- the applicant requires to be accommodated on site on a full time basis because his presence "is essential to the efficient operation" of the businesses;
- the cement supply business operates on a 7-days-a-week and 24-hours-a-day basis, often requiring "ad hoc customer service at unsociable hours";
- the house would also be used to accommodate the businesses' office;
- the presence on-site of a worker is needed for security; the current business premises of Border Mix are overlooked by the applicant's existing home, and he is concerned to maintain a similar arrangement at the new site; and
- the applicant requires to sell his existing home because the significant capital investment required to relocate would be provided largely from the sale of the family home.

As far as the applicant is concerned, a dwellinghouse on site is an integral part of the proposed business operation, and vital to its successful transfer to the new site.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Economic Development Section:** Economic Development fully supports the application on the grounds that this should promote the business' expansion and efficiency, and the protection and creation of jobs, advising that the alternative could possibly be the closure of the business, if the current ground leases are terminated. The service considers that the relocation of the two businesses to the same site would allow the applicant to increase efficiencies, reduce their carbon footprint, and enable longer working hours in the winter, which would potentially enable the businesses to expand, creating new jobs. It advises that there are few if any options in this part of the Borders Region, to re-locate the businesses' operations to any industrial site. It considers that the type of operation concerned, is likely to cause fewer problems if it is sited in a rural location, away from residential properties, both from a noise, dust and vehicle movement point of view. Also, due to the size of site needed, it is considered that the same or equivalent amount of land within an existing industrial estate would probably be extremely costly, as land values on a basic agricultural plot are much lower than a serviced zoned business site.

**Roads Planning Section:** is supportive of the relocation of this business to the site on the basis that the existing premises lies adjacent to residential dwellings and appears to

be outgrowing its current site. Relocating the business would remove the existing conflict between residential traffic and business traffic which requires the use of the public road for manoeuvring.

**Environmental Health Section:** responded at the time of the original consultation to advise that it has no comments with respect to potential land contamination concerns, and to advise with respect to potential amenity and pollution concerns, that the Applicant should provide an assessment of impacts arising from the proposed development (noise, dust, fumes etc.) and that any necessary mitigation measures should be specified. The Applicant has since provided a statement on these particular matters which Environmental Health advises, requires a few tweaks with respect to the proposed mitigation measures in order to secure its support. These primarily relate to the need for agreed complaints procedures for the regulation of air quality, dust and noise; the need for the regulation of air quality and dust mitigation measures to be made the responsibility of a specific role within the operation; and the need for lighting installation to comply with recommendations of the Institution of Lighting Engineers. It is considered that all of these matters can be made the subject of planning conditions requiring agreement of the requisite details prior to the commencement of operations.

**Landscape Section:** advises that in landscape and visual terms, the site is extremely exposed and would be in full view of the A702 road from both directions, and from and within the setting of the Pentland Hills Special Landscape Area (SLA) which lies to the north. Since there are large buildings in the wider countryside, usually associated with farm steadings, the impact is not completely unexpected, but the additional yard storage area constitutes further visual intrusion. There is also anticipated to be visual impacts associated with 24/7 hours of working and the need for any yard lighting.

It is considered absolutely essential that maximum advantage is taken of opportunities for mitigation to reduce visual impacts, specifically:

- (i) the prior agreement of the finished colour(s) of the proposed buildings;
  - (ii) the prior agreement of the details of the proposed bund;
  - (iii) the regulation of any lighting to minimise unnecessary light spillage outwith the site;
- and
- (iv) the provision and strengthening of screen planting

A 'Marked Up Plan' has been provided by the Landscape Architect to illustrate specifically what would be sought. The amended site plan reflects the additional planting that was sought, and is considered to represent as much as could be done to balance the needs of screening and the ecological/habitat interest. It is anticipated that within five to ten years, this reinforced planting should screen the development from the road.

**Archaeology Officer:** there are no known archaeological assets within the development area, but based on discoveries in the wider area from a range of periods, as well as upon underlying sub-soil deposits (both peat and sand and gravel deposits), there is moderate potential for the site to contain previously unknown archaeological features, deposits or objects. To assess this, a 10% trial trench evaluation of the entire development site should take place in advance of development. Further investigation and dissemination may be required depending on the results. To this end, a planning condition requiring a developer funded field evaluation is recommended.

**Ecology Officer:** initially responded to require that prior to determination, a



proportionate Ecological Impact Assessment (EclA) should be submitted for the Planning Authority's approval, including an assessment of potential impacts on Ingraston moss pLBS, European Protected Species (otter), badger, and breeding birds. Following the submission of this EclA, the Ecology Officer has more recently responded to advise that the proposal is acceptable from an ecological perspective, provided planning conditions are applied.

**Education and Lifelong Learning:** advises with respect to the proposed new dwellinghouse that financial contributions would be required towards education provision for the local Primary School and High School.

### **Statutory Consultees**

**Community Council:** supports the application on the grounds that:

- (i) the Applicant operates a well-established business with a current base that it serves from Dolphinton, removal from which would present dangers to the business;
- (ii) the Applicant has made attempts to obtain premises elsewhere but these have been unsuccessful and the proposed location is the best solution for the business' long-term future;
- (iii) the Applicant experiences a high level of difficulty and constraint upon his operation at its current site, with little to no prospect of expansion of the cement delivery part of the business;
- (iv) coupled with the possibility of losing the manufacturing and storage area for the high-volume component of the business, a move is necessary to grow the business; and
- (v) the proposed buildings are agricultural in appearance, would be located within a natural dip, would be screened by a bund and trees. Taking account of the above, the Community Council finds that the Applicant has satisfied Local Development Plan Policies ED2, PMD2, and ED7. Within this assessment, it supports the Applicant's advised need for a dwellinghouse to be present on the site, to secure equipment and other assets.

**Transport Scotland:** No objection, subject to the imposition of conditions in relation to access construction and visibility.

**Scottish Natural Heritage:** initially responded to object to the proposals on the basis that further information was required to assess whether or not the proposal would affect the integrity of the Dolphinton – West Linton Fens and Grassland Site of Special Scientific Interest (SSSI). However, following review of the Applicant's Ecological Impact Assessment (EclA), SNH has more recently advised that notwithstanding certain deficiencies in the information provided, it is content that the natural heritage interests of national importance adjacent to the site would not be affected by the proposal. Accordingly, is able to withdraw its initial objection. This is based on its understanding that the development would be operated in accordance with the Applicant's advice, and that certain highlighted matters would require to be regulated by SEPA under the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC) and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR).

**SEPA:** initially objected on the grounds of a lack of information on foul and surface water drainage. In particular, information was sought as to whether or not foul drainage would involve a private discharge. Following submission of a plan of the proposed site drainage, SEPA has more recently responded to advise that it is content to withdraw its

objection on the basis that the proposed drainage arrangements are acceptable in principle.

**Health and Safety Executive:** does not intersect a pipeline or hazard zone.

#### **DEVELOPMENT PLAN POLICIES:**

##### **SES Plan Strategic Development Plan 2013**

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

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy PMD4: Development Outwith Development Boundaries

Policy ED2: Employment Uses Outwith Business and Industrial Land

Policy ED7: Business, Tourism and Leisure Development in the Countryside

Policy HD2: Housing in the Countryside

Policy HD3: Residential Amenity

Policy EP1: International Nature Conservation Sites and Protected Species

Policy EP2: National Nature Conservation Sites and Protected Species

Policy EP3: Local Biodiversity

Policy EP5: Special Landscape Areas

Policy EP8: Archaeology

Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

Policy EP13: Trees, Woodlands and Hedgerows

Policy EP15: Development Affecting the Water Environment

Policy EP16: Air Quality

Policy IS2: Developer Contributions

Policy IS4: Transport Development and Infrastructure

Policy IS6: Road Adoption Standards

Policy IS7: Parking Provision and Standards

Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Policy IS13: Contaminated Land

#### **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy

PAN 60 – Planning for Natural Heritage

#### **KEY PLANNING ISSUES:**

Whether or not the proposal to locate and operate industrial business premises at this rural site is appropriate, including in terms of landscape visual and environmental impact;

Whether or not a residential property at this rural site is appropriate in planning policy terms.

## **ASSESSMENT OF APPLICATION:**

### **Planning Policy - Proposed Business Premises**

Local Development Plan policies direct development to appropriate locations, primarily within development boundaries and, in the case of business development, to land allocated for that purpose. Any other proposal is required to justify the need for the location proposed.

Policy PMD4 states that where development boundaries are defined on Proposals Maps, these indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. As such, proposals for new development outwith the development boundary and not on allocated sites should normally be refused.

The policy does however allow that an approval might be granted exceptionally, where strong reasons can be given that it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2; or that it is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary. In either case, the development must also be able to meet the determining criteria of the policy in question.

While it is acknowledged that approval would result in the benefit of the removal of the existing business operation from a residential area within the development boundary at Dolphinton, this would not be the 'significant community benefit' that could justify the proposal being made the subject of an exceptional approval under Policy PMD4. The potential benefit to the surrounding area of removing the existing business premises from the village is material, but it does not address the primary purpose of the policy which is to ensure that development outside development boundaries is properly justified. The "community benefit" test for the purposes of this policy is whether the proposed use is one that delivers significant benefits to the community that it might not be possible to accommodate within a settlement. Examples given in the plan for community uses are schools, community centres or a health centre.

A case needs to be made for the particular location of the development and, while a general case has been made to support the relocation of the business in this case, it has not been demonstrated that this is the only site to which the circumstances would apply.

Local Development Plan Policy ED7 requires that, in order to be supportive, the Council should be satisfied that there is an economic and/or operational need for the proposal to be located on this site, in the particular countryside location identified, and that the business could not be accommodated within the Development Boundary.

The site is an undeveloped field, some distance beyond the Development Boundary, which is not allocated for industrial use, or indeed for any other use. The business use described encompasses both Class 6 storage use and Class 5 industrial use, which have no requirement to be sited and operated in the countryside. Such premises would ordinarily be expected to be accommodated within the Development Boundary, more particularly within an industrial estate, more suited to such uses, avoiding the release of undeveloped sites in the countryside.

The applicant however maintains that there is an economic and operational need for the specific proposed business premises to be sited and operated from this particular countryside location. This is on the grounds that the premises would accommodate existing businesses which need to continue operating from the Dolphinton area, to service an established customer-base. This also requires good access to the A702; a larger purpose-built site capable of accommodating the businesses' expansion; and sufficient set-back from the nearest dwellings to conserve neighbours' residential amenity. Taking account of these considerations, and the applicant's inability to secure such a site within the Development Boundary at Dolphinton, the applicant contends that he had no option other than to identify a site outwith the Development Boundary, but in close proximity to Dolphinton.

With respect to the selection of the specific site, the applicant advises that in addition to the above, the lack of other opportunities to buy land within the surrounding area, coupled with this particular land owner's willingness to sell the application site to the applicant at a competitive price, have been significant factors for the applicant. While the applicant has considered other sites within the wider area, including allocated industrial land in West Linton and Peebles, he advises that he has encountered problems with respect to land owners being unwilling to sell land at an affordable price or with respect to difficulties relating to vehicular access and movements along the local road network. Ultimately however, his main concern has been that the businesses' established operations should not be removed too far from their existing base.

The Council's Economic Development service is supportive of the applicant's proposals and corroborates the efforts that the applicant has made to identify alternative premises elsewhere, in Peebles and West Linton, as well as the level of difficulty that the Applicant has had in attempting to secure any established industrial premises or allocated business land within the surrounding area.

Taking account of concerns with respect to the protection of residential amenity and appropriate arrangements for the accommodation of vehicular parking and movement, it is clear that the applicant's ability to secure an appropriate alternative site within the Development Boundary at Dolphinton is extremely limited. It is therefore broadly accepted that the Applicant has a requirement for a new site outside of the Development Boundary at Dolphinton.

However, whilst the case for a new site is acknowledged, it is still necessary to assess the location of the chosen site and the likely impacts arising from that choice. The fact that the site is highly visible is likely to accentuate those impacts, bringing into question whether this is the most appropriate site for the development being proposed.

A difficulty remains that there is little indication of any rigorous attempt on the part of the applicant to secure any other specific site beyond the application site. Ahead of the identification of a greenfield site, it would have been necessary to have first sought to identify suitable brownfield land within the vicinity, such as the quarry or a farm steading. Within the supporting case, site selection relative to certain other identified alternative sites within the surrounding area, is largely only explained by the fact that the application site lies within the ownership of a third party who is willing to sell the land at a price that is considered to be acceptable to the applicant. However, in a system concerned with land use impacts, no account can be had to the fact that the applicant may have to

secure land at a more competitive price than otherwise might have been the case, as this could be argued against any site.

The applicant has, quite reasonably, identified a site within immediate proximity to the trunk road, but this proximity in itself does not justify the selection of this precise site over any and all other potential sites. It is an argument that could be applied to a number of sites.

Although some details have been provided of a site search involving thirteen alternative sites, these do not identify any specific sites so much as rural land owners (mostly farms) within the surrounding area that have been contacted by the applicant about the possibility of selling land. The majority of these have been discounted on the basis that the land owners are unwilling or unable to sell, which although a practical consideration, is not a compelling justification for the application site.

Amongst these sites identified as being unavailable is Garvald Quarry, where the applicant's block-manufacturing operation is currently accommodated on land leased from the quarry owners, Tarmac. The applicant is concerned that there is likely to be a short-term need for him to relocate away from the quarry ahead of the latter being reactivated. While Tarmac's emailed advice to the applicant confirms the owner's reluctance to sell to the applicant the existing block-manufacturing site (or any other land currently within its ownership), it only appears to identify a long-term concern to reactivate the quarry, and does not rule out the potential to extend in area or time, any lease of the same land to the applicant. The applicant's concern is that he wishes to own the land ahead of investing in any buildings, which appears to make the land unavailable in this particular case. While the opportunity to invest in, and grow the business through the acquisition of a site and accommodation of both businesses, is understandable, it is unclear to what extent the applicant is setting parameters that exclude what may be viable and more acceptable ways of operating in planning terms. It is not for example, altogether apparent that block manufacturing operations could not be continued, even scaled up, at the quarry at present or within the foreseeable future, and within temporary rather than permanent buildings. The applicant's concern to buy a site and centralise his operations would appear to be a significant driver, and undue weight cannot be given to this where opportunities for more flexible operating arrangements have not been sufficiently explored within the supporting details.

The supporting case has not demonstrated that the applicant's needs could only be met at this particular site. In fact, insufficient information has been presented to demonstrate that the proposal might not have been accommodated just as readily on brownfield land within the surrounding area, or where the site might have benefited from existing accesses, established yards, buildings and/or established landscaping. The applicant does evidence communication with surrounding land owners with respect to his interest in acquiring land, but the information is general, and the exact terms of any expressions of interest are not fully detailed.

In summary, although the case for relocation is accepted, the supporting case for the choice of site appears to rest upon the availability of the application site **for sale** and the economic benefits to the applicant of securing a large area of land relatively inexpensively, perhaps precisely because the land is not allocated for business or any other land use. These factors do not in planning terms justify support for this application site over any other area of land within the wider area, or override established policies

designed to protect the countryside against unjustified development. It is again, an argument that could be applied often and to many sites. To this end, it is considered that the applicant has not demonstrated that there is an economic and/or operational need for the particular countryside location of the site and therefore the proposal is contrary to the requirements of Policy ED7.

### **Planning Policy - Proposed Dwellinghouse**

In planning policy terms, the application site is an isolated rural site, lying as it does outwith the Development Boundary at Dolphinton and in isolation from any existing building group, where small scale residential development might be considered acceptable. In order to comply with the requirements of Adopted Local Development Plan Policy HD2, therefore, any new dwellinghouse proposed for this site requires special justification and would normally only be supported if it were necessary as direct operational requirement to support an business requiring a functional need to accommodate a worker on-site, on a full-time basis at the site.

As noted in the preceding section, the case for the business is not considered to have been made and therefore, if Members accept that position, then it correspondingly follows that there would be no need for a house at the site. On this basis alone, the proposed dwellinghouse would fail to comply with the requirements of Policy HD2.

Even if the case for the business is accepted, it is legitimate to consider whether the need for a house at the site has been made.

The Applicant advises that he may need to operate the cement supply business at unsociable hours, and prepare cement for dispatching at relatively short-notice to meet quick-turn-around or emergency contracts.

It is acknowledged that the business's workers might require to access the site at unsociable hours to prepare and dispatch cement supplies at short-notice; and that having a worker living within a relatively short distance to the site would undoubtedly be helpful to the operation; however, this does not necessarily translate into an overriding need for there to be a worker actually residing on site on a permanent basis.

It does not appear operationally necessary that the same individual would be permanently required on site to prepare cement for distribution other than in direct response to a customer's specific order. It is not disputed that the business may operate on a 24-hour, 7-days-a-week basis, but this in itself does not justify any operational need for a dwellinghouse on site so much as suggest that this concern would in fact be better met by shift-working. It is therefore not accepted that there is any operational requirement for any worker to reside on site to meet these short-term and emergency cement supply contracts.

The applicant also seeks the permanent presence on-site of a worker for security reasons. However, it would be reasonable to ask whether any security issue might be addressed in other ways, such as a perimeter of security fencing and/or use of surveillance cameras. It is not clear that the need for a house is any greater than for other business operators, for example, on an industrial estate where there would be equivalent needs and concerns to store valuable vehicles and equipment securely.

It might be argued, with respect to the business operations described, that accommodation for a duty worker or watchman could fulfil the need, rather than a family home for the Applicant himself. The proposed site is sufficiently close to the nearby building group that it would be possible to be available at short notice to deal with any issues.

A site office could readily be accommodated on site and would address the suggested requirement.

Taking account of all of the above, it is not considered that the applicant has demonstrated compliance with the requirements of Section (F) Economic Requirement of Policy HD2. There is no justifiable operational requirement for a residential property to be located outwith the Development Boundary for the purpose of supervising new purpose-built premises for a cement supply business and a concrete block manufacturing and supply business; especially premises that are not already established on-site, as in this case.

This would seem to reinforce the view that this is not the appropriate location to establish the business. Even if it were accepted that the applicant has a justifiable operational need to be accommodated near his business premises, it would be appropriate to have considered locations where there was already an existing house, ahead of establishing a new site which could then only be served by a new house. It is a requirement of Policy HD2 that new housing should only be permitted where no suitable existing house or other building capable of conversion to residential use is available.

If Members do accept the case for the house, it would be legitimate to require that the dwellinghouse should be constructed at the same time as, or after, the business premises buildings, in order to avoid the risk that an isolated new dwellinghouse in the countryside is built and the business is not. It would also be appropriate to require by condition that the house should be retained within the same planning unit as the business premises, and only be occupied by someone who works within, or has retired from, the associated business premises. This would also ensure that the operation of the business premises would have no unacceptable impacts upon the amenity of the occupants of the residential property.

### **Planning Policy ED10: Protection of Carbon Rich Soils**

Local Development Plan Policy ED10 serves to protect carbon rich soils, specifically by requiring that development on carbon rich soils should be refused unless: the land is allocated for development within the local plan; the development meets an established need that cannot be met by any other site; and/or the development is small scale and directly related to a rural business.

The applicant advises that notwithstanding that the site is located within an area of Carbon Rich Soils, the specific on-site conditions are not favourable to the conservation of deep peat deposits. This includes a history of cyclical ploughing, sowing and ongoing improvement of the land for farming through field drainage and fertilizer applications. Further, he advises that construction would be a one-off event, unlikely to release any more carbon than the continuation of farming at the site. As such, he maintains that the actual quality of carbon rich soils at the site is now liable to be sufficiently diminished that the proposal would not be liable to have any unacceptable impacts upon this resource.

The applicant's evidence on this matter is not comprehensive, and does not in itself reasonably allow Policy ED10 to be set aside. The latter policy in any case, identifies circumstances in which it would be appropriate to allow development to be accommodated, where it otherwise meets the policy's requirements. These largely mirror the considerations that are assessed under Policies PMD4, ED7 and HD2, as detailed above.

Accordingly, and in line with a recommendation that the development of this particular rural site for the proposal has not been substantiated, and there is no operational justification for a house on this land, it would follow that the proposal would also not comply with Policy ED10, in that the impact on a designated area of carbon rich soils is unnecessary and unacceptable.

### **Design and Layout**

It is accepted that a robust landscaping scheme and the selection of dark or natural colours as would normally be used on modern farm buildings, could provide sufficient landscape and visual mitigation of their appearance, although this will take time to establish. Similarly, strong screening at lower levels from the proposed bunding and the proposed tree planting could also form an acceptable containment of any external yard areas. Such matters are capable of being regulated by appropriately worded planning conditions.

In other circumstances, the proposed design of house would have raised considerably more concerns than it does here – principally because the main roof ridge has a continuous height, giving it an unusual form, as well as an overly exaggerated horizontal emphasis. However, as an isolated residential property that would be located behind considerably larger business premises buildings relative to the trunk road, and subject to an appropriate landscaping treatment for the wider site, it would have relatively insignificant landscape and visual impacts in views from the A702 and the surrounding countryside. It would still be appropriate to require that its external materials and finishes should be regulated, including the prior approval of the render colour, to ensure a satisfactory finished appearance.

### **Road Safety, Access and Parking**

Notwithstanding objectors' concerns about road safety on this stretch of the A702, Transport Scotland (who have responsibility for the trunk road network) have raised no objection, subject to requirements with respect to the formation, construction and operation of the site access being met in full. Again, such matters are capable of being addressed by planning condition.

### **Landscape and Visual Impacts**

The site is currently highly visible from the main road and any landscaping required to mitigate the visual effects of the large-scale development proposed will need to be significant and may take several years to fully establish.



The Landscape Section is fully supportive of the Applicant's revised proposals for landscaping treatment for the site, which appears extensive and robust with respect to proposed new tree planting, particularly in the area between the site and the trunk road.

A point of note is that much of the land that is shown to accommodate new tree planting, is not in fact within the application site. Indeed, it is also not within the applicant's own ownership, although is currently within the same ownership as the application site. The applicant has however supplied a letter confirming the current land owner's stated intention to sell this additional land to the applicant, as part of any purchase of the application site. The matter would certainly require to be regulated by planning condition. Such a condition would need to be "suspensive", meaning that it would require the planting to take place first, in turn meaning that the applicant will need to have first acquired this additional land ahead of the commencement of any development.

In the event of permission being granted, there would also be a need for further planning conditions referencing both the applicant's proposed landscaping treatment and requiring the submission and prior approval of the precise details of the proposed tree planting scheme.

It would also be necessary, if permission were granted, to require the prior agreement of the finished floor levels, and finished ground levels. Similarly, the details of the finished appearance of any bunded feature, including heights and profile would also require to be provided for prior approval, to ensure a satisfactory finished landscaped appearance for the site in views from the public road.

### **Residential Amenity**

The proposed distance of set back of the site from the Development Boundary at Dolphinton, does largely ensure that the businesses' operations would not be liable to have any unacceptable impacts upon the amenity of the nearest residential properties. Nonetheless, Environmental Health retains some concerns with respect to the management of air quality, dust, noise, and lighting. Environmental Health Officers do however consider that these concerns can be addressed under appropriately worded planning conditions.

Advice with respect to lighting does however raise a difficulty in that the applicant's concern to operate 7 days a week, and potentially on a 24 hour basis does indeed suggest that the operation would have some requirement for the installation and use of lighting. However, no specific lighting proposals have been set out within the proposals.

There is potential for lighting to be installed as permitted development (e.g. as lights on buildings), but in the event of approval, it would still be appropriate to ask the applicant to refer to the Planning Department with respect to any future lighting proposals, primarily enable assessment of the lighting concerned.

### **Cultural Heritage and Archaeology**

The Archaeology Officer's concern is capable of being met by an appropriately worded planning condition.

## **Natural Heritage**

Following the provision of additional details, both the Council's Ecology Officer and SNH are now satisfied that the proposals would have no unacceptable impacts upon the natural heritage interests at the site and in the surrounding area subject to their stated concerns being met within appropriately worded planning conditions.

## **Infrastructure**

SEPA's concerns are largely capable of being met by informatives, and a condition to regulate the implementation of proposals for the operation of an appropriate foul drainage system.

## **Developer Contributions**

A legal agreement would be required in the event of approval, to secure the requisite development contributions towards local education provision.

## **Other Concerns**

Notwithstanding the concerns of one of the objectors, notification was in accordance with statutory requirements. There are no residential properties within 20m of the site boundary that would have necessitated specific notification.

Objectors' concerns that the site might end up in alternative business and/or residential uses have some credibility. Once established, other businesses within the same use class could benefit from the permission. It is unlikely the proposed buildings would be used for farming and new uses, most likely new commercial uses, could operate from the buildings without the need for further consent from the Council. If permission were to be granted, it would therefore be advisable to restrict by condition the use to that proposed by the applicant, to ensure that there would be full and appropriate scrutiny of any potential successor business operations.

The site is not within a flood risk area or Conservation Area.

The future use and disposal of the Applicant's existing business premises at Dolphinton, are not a matter for consideration as part of this application.

## **CONCLUSION**

The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with Adopted Local Development Plan Policies PMD4, ED7 or ED10 in that the Applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location.

The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the

countryside, and therefore does not comply in principle with Adopted Local Development Plan Policies PMD4, HD2 or ED10.

The proposal relates to a site that lies outwith the Development Boundary and no overriding reasons have been given to substantiate that it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2; or that it is a development that would offer significant community benefits that would outweigh the need to protect the Development Boundary. As such, the proposal does not comply in principle with, or with any of the justified exclusions allowed from, Adopted Local Development Plan Policy PMD4.

Notwithstanding the potential to realise benefits both to the Applicant's businesses and wider local economy; and indirectly to the amenity of residential properties around the Applicant's existing premises in Dolphinton, it is considered that there are no other material considerations that would justify a departure from these provisions.

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

I recommend that the application is refused for the following reasons:

1. The proposed business premises for a mixed Class 5 and Class 6 business operation does not comply in principle with adopted Local Development Plan Policies PMD4, HD2 or ED7 in that the applicant has not demonstrated any overriding economic and/or operational need for it to be located in this particular countryside location and therefore the proposed development would represent unjustified, sporadic and prominent development in the open countryside.
2. The proposed dwellinghouse would not meet any direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and therefore does not comply in principle with adopted Local Development Plan Policies PMD4 and HD2.
3. The proposed development would result in the unjustified and permanent loss of carbon-rich soils, contrary to Policy ED10 of the adopted Local Development Plan.

#### DRAWING NUMBERS

<b>Plan Ref</b>	<b>Plan Type</b>
BMIX01 PL001	Location Plan
BMIX01 PL002 B	Site Plan
BMIX01 PL003	Floor Plans
BMIX01 PL004	Elevations
BMIX01PL005	Elevations
0329 PL004	Existing Layout

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

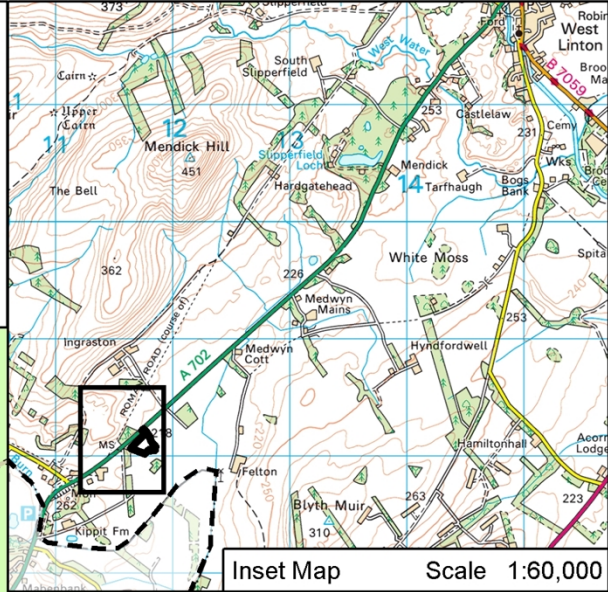
**Author(s)**

Name	Designation
Stuart Herkes	Planning Officer

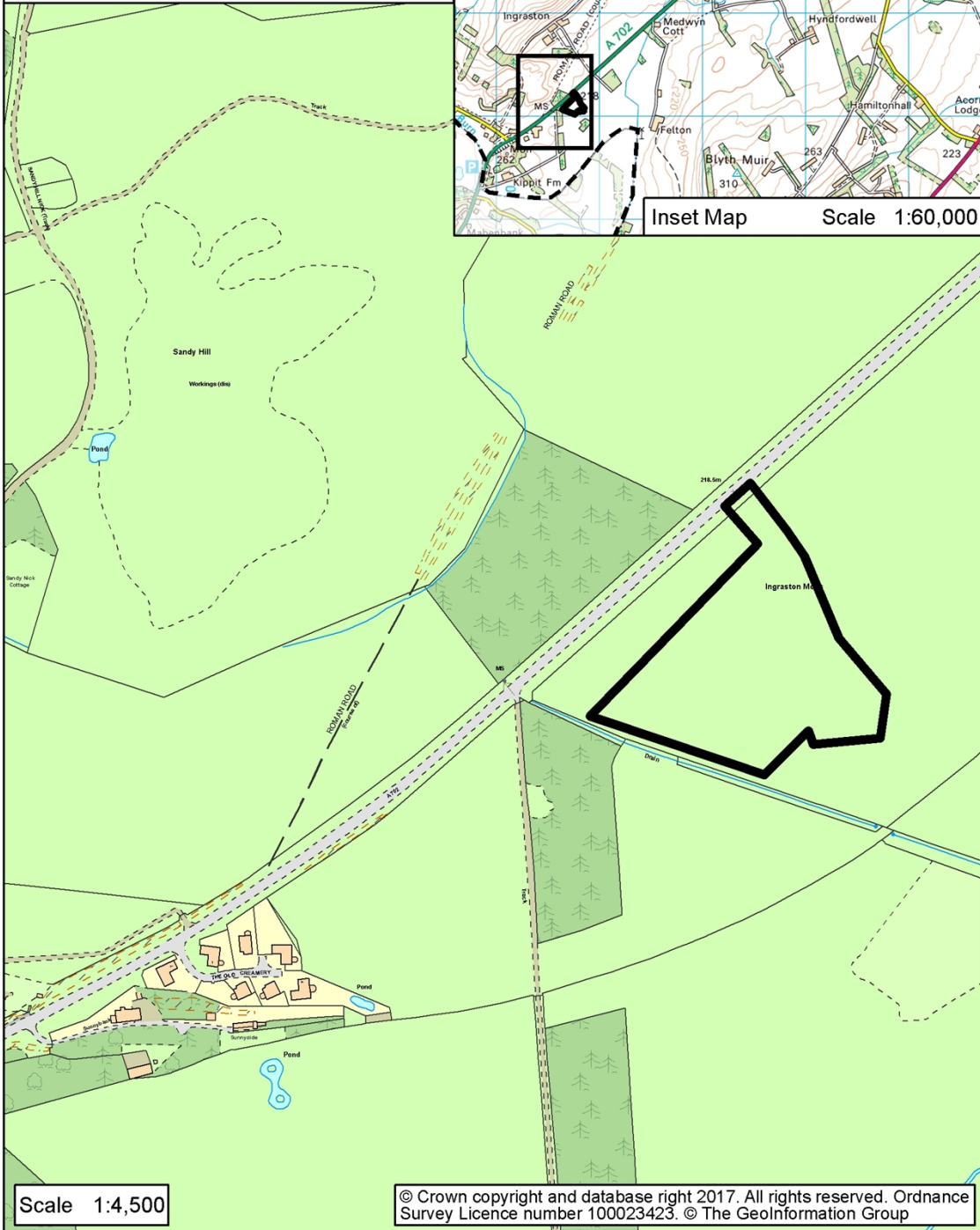


17/00087/FUL

Land North East Of  
3 The Old Creamery  
Dolphinton



Inset Map Scale 1:60,000



Scale 1:4,500

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