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Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100048119-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Ericht Planning & Property Consultants		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Kate	Building Name:	The Office - Gifford House
Last Name: *	Jenkins	Building Number:	
Telephone Number: *	07795 974 083	Address 1 (Street): *	Bonnington Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Peebles
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH45 9HF
Email Address: *	kate@kjenkins.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Unit 1"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Sunnyside"/>
Company/Organisation	<input type="text" value="GS Chapman Ltd"/>	Address 2:	<input type="text" value="Macbiehill"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="West Linton"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH46 7AZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Scottish Borders Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="652715"/>	Easting	<input type="text" value="321707"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of vehicle body repair workshop and associated parking

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see attached Supporting Statement to Notice of Review and all other supporting documentation

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

An email from the Community Council is included (obtained since determination). It supports the proposal. This should be accepted as part of the local review as it is reasonable for the Appellant to have assumed that the Community Council had been consulted at application stage. The Applicant's communications with a particular member of the Community Council indicate that the Community Council was not consulted at application stage. This information should have been before the Appointed Officer.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Supporting Statement to Notice of Review Letter from GS Chapman Ltd to Mrs Bell Letter from Hamish Dykes of South Slipperfield Farm to GS Chapman Ltd Letter from A Laird, Blyth Farms to GS Chapman Ltd Email from Community Council Decision Notice 16/01174/PPP Original Application Documents: Floor Plan and Elevation of Workshop Indicative Site Plan Location Plan Original Planning Supporting Statement 16/01174/PPP Abbreviated Accounts 14\_15 and 15\_16

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

16/01174/PPP

What date was the application submitted to the planning authority? \*

21/09/2016

What date was the decision issued by the planning authority? \*

17/01/2017

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

It will be necessary for elected members to understand the locational context of the proposal in terms of lack of general visibility, lack of impact on residential amenity and in the context of 'industrial-scale' poultry buildings. This can only reasonably be done by way of site inspection.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Kate Jenkins

Declaration Date: 11/04/2017



**Supporting Statement to Notice of Review**

**in relation to Scottish Borders Council's refusal of planning permission for:**

**Erection of vehicle body repair workshop and associated parking  
on land north west of Dunrig, Spylaw, Lamancha, West Linton (16/01174/PPP)**

**on behalf of GS Chapman Ltd. (the Appellant)**

**11<sup>th</sup> April, 2017**

## EXECUTIVE SUMMARY

The fundamental aim of this appeal is to ensure the continuance of a highly successful established local business, GS Chapman Ltd, which is unable to locate a suitable site within or adjacent to a Tweeddale settlement, and which will potentially be without premises or a suitable site upon which to locate at expiry of a lease in April, 2018. The business provides existing employment (1 full time, 1 part time and contract labour) and would, if relocated as proposed, provide additional rural employment for 2 individuals.

This Notice of Local Review is submitted on behalf of GS Chapman Ltd against the decision of Scottish Borders Council to refuse planning permission, on 17<sup>th</sup> January, 2017, for the erection of a vehicle body repair workshop and associated parking on land north west of Dunrig, Spylaw, Lamancha. The application reference was 16/01174/PPP. The application area is 0.153 ha.

Notwithstanding the PPP nature of the application, indicative architectural drawings were prepared including Site Plan, Elevations and Floor Plan in order to provide the Planning Authority with as much information as possible at PPP stage. The siting of the building, access, vehicle parking arrangements and proposed landscaping were indicated.

It must be noted, at the outset, that the application was NOT for a general motor repair garage, but for a 'body repair workshop', housed in a shed which will resemble an agricultural building within the landscape. The significance of this is referred to herein.

The reasons for refusal include the Planning Officer's view that:

- The proposal would more reasonably be accommodated within the Development Boundary of a settlement;
- The Applicant has not demonstrated any overriding economic and / or operational need for the proposed location;
- The operation of the business, including the (purported) storage of general vehicles at the site would be unsympathetic to the rural character of the site;
- The operation of the business, including the (purported) storage of general vehicles at the site would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

This Statement summarises important context and background, drawing upon information from the original application. Formal grounds for the Local Review are then



set out, followed by detailed justification of the necessity and acceptability of the proposal under the three Grounds.

Members are urged to agree to hold a **site visit** in order to understand the lack of visibility of the proposed building within the wider landscape, despite its elevated location on account of local topography. The limited visibility would be reduced even further once landscaping proposals, acceptable to the Planning Authority, are implemented.

**Note on information within this Statement**

Firstly, this Appeal is based upon information associated with Application 16/01174/PPP which was refused by the Planning Authority.

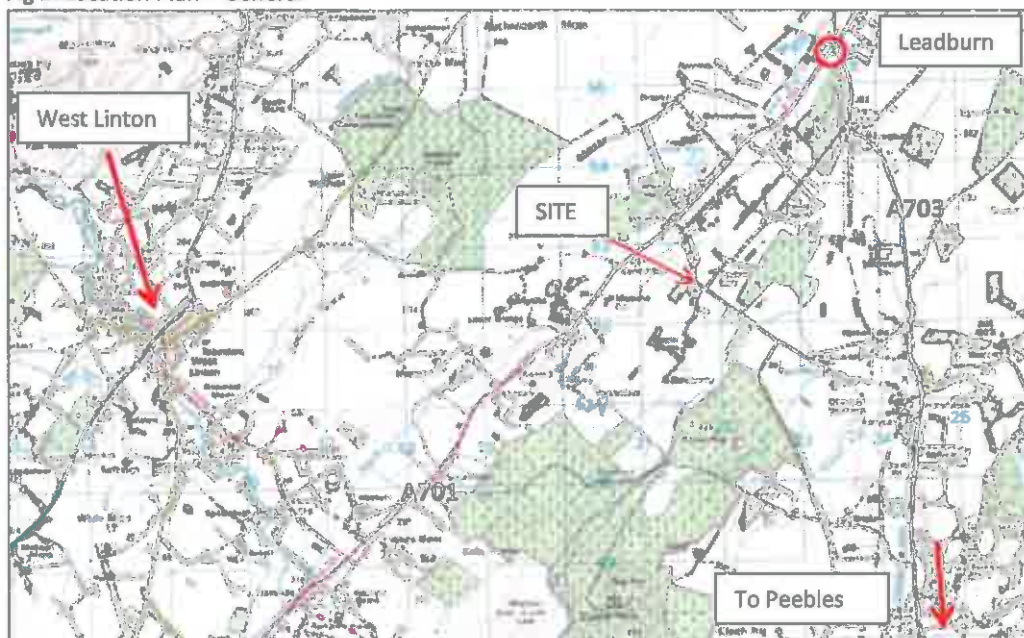
Secondly, two letters from local landowners are now included. This information is not 'new information', merely an expansion on existing information provided within the refused application. The Appellant made it clear in the Application that he was aware that no other land was available for his proposal on farms or estates around West Linton, based upon his local knowledge, which must not be under-estimated given a lifetime living and working in the local area.

Thirdly, the now-included email from the Community Council has been provided as 'new information' on the basis that this information should have been before the appointed Officer at determination, but it appears for reasons unknown, that the Community Council may not, in fact, have been consulted on the Application. The support for the proposal by the Community Council is clear. This information must be taken into account as the Community Council should have been consulted and the response should have been a consideration in the determination of the application.

## 1.0 INTRODUCTION – CONTEXT AND BACKGROUND

- 1.1 This appeal is submitted by Ericht Planning & Property Consultants on behalf of GS Chapman Ltd, a business wholly dedicated to vehicle **body** (not mechanical) repairs. The Appellant wishes to challenge the refusal, by Scottish Borders Council, of planning permission for the erection of a vehicle body repair workshop on land to the north west of Dunrig (applicant's residence), Spylaw, Lamancha.
- 1.2 In 2015, planning application (15/01410/PPP) was submitted by GS Chapman Ltd for the erection of a vehicle repair workshop and associated parking. The Planning Officer noted a significant number of shortcomings with the application, which was then refused in January, 2016. A subsequent application (16/01174/PPP) addressing shortfalls in information was submitted by Ericht Planning & Property Consultants in September, 2016. It is the decision on this 2016 application which is the subject of Local Review.
- 1.3 Original drawings are provided again as separate documents for this local review but, for ease, please refer to the following plans below:
- Fig 1: General Location Plan;
  - Fig 2: Application Location Plan;
  - Fig 3: Indicative Site Plan showing landscaping –to be strengthened as required by SBC.

Fig 1: Location Plan – General





- 1.4 Access to the subjects is to be taken from the minor D17/1 road which links the A701 to the A703 via Shiplaw.

**Fig 4: View to the entrance to the subjects (from the north)**



**Fig 5: View towards the entrance to the subjects (from the west)**



**Proposed Site**

- 1.5 The proposed site is at Spylaw, a 10ha (25 acre) former farm, owned by the Applicant, which lies a short distance of 5km from the business' current premises at Sunnyside., Lamancha. The proposed building would measure (l) 24.4m x (b) 12.2m x (h) 4.4m (298 sqm footprint) and be a purpose-built steel framed building which, externally, would appear as an agricultural building with green-painted box profile insulated cladding. The building would have two sectional roller shutter doors on the north-east and north-west elevations. Reference should be made to original application plans.

**Existing Premises**

- 1.6 The existing premises at Sunnyside occupied by the business are not sustainable for a wide range of reasons.
- **There is uncertainty over the future of the business' tenancy at Sunnyside beyond April, 2018. There is an absence of security for this important local business.**
  - The building is not fit for purpose. The structure is unsound and in need of major refurbishment, including defective roof and water penetration through blockwork walls. The concrete floor is breaking up in places.
  - Tenure does not allow the tenant to carry out alterations or improvements, only like for like repairs.
  - There is no draught proofing or insulation. Working conditions are challenging and inappropriate for attracting employment.
  - In the winter months internal temperature regularly drops below zero degrees and the water supply freezes. The gable (door) end of the building faces directly into the prevailing wind and is very exposed.
  - The east side of the building floods a few times a year. In the winter this is dangerous.
  - There is no damp proof membrane under the floor. When frost thaws the floor becomes soaking wet.
  - The business relies on a space heater which is ineffective given the level of air movement due to the poor condition of cladding and lack of insulation. The use of energy is therefore extremely inefficient and costly.
  - The three phase electricity supply is inadequate for the needs of the business and as a result it often fails completely under load demands made by equipment.
  - The impact of the uncontrollable internal environment upon spraying operations is that they become inefficient in cold temperatures. It is simply impossible to regulate the temperature in a building with various significantly perforated panels.

- ⇒ At below 5 degrees, the air compressor ceases to work. Given the elevated position and the poor quality of the building, in the winter months it is not unusual for the internal temperature to drop to/below this level.

1.7 In summary, Members of the Local Review Body are requested to note the following key points regarding the proposal. These points are justified, in considerable detail, under section 4.0 "Case for the Appellant".

- ⇒ The Planning Officer has accepted that a site within or close to West Linton (specifically) is necessary for the business to relocate onto within the next 12 months. The business has a firmly established Client base in the area;
- ⇒ The business will likely be "homeless" at the end of its lease in April, 2018;
- The single allocated industrial site within West Linton is not available and has not been available since its allocation in the 1990s due to an "unwilling owner". Extensive enquiries have been made.
- There are no suitable brownfield sites in or around West Linton and landowners who have been approached are unwilling to sell land for the premises;
- Previous (unrelated) applications (e.g. 15/01260/FUL) show that the Planning Authority is not willing to site industrial use on the edge (just outside) of West Linton;
- The proposal will not have detrimental landscape impact;
- The proposal is sited in an area EXTENSIVELY populated with large (100m + long) poultry units. The single agricultural type shed will only measure 24.4m x 12m;
- The Roads Planning Service raised no objections to the proposal;
- It is acknowledged by the Case Officer that there would be no detrimental impact upon residential amenity;
- There is no objection from Environmental Health;
- There were no public objections;
- There was no comment from the Landscape Officer;
- No mechanical repairs are, or will be, carried out, so there are, and will be, no mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
- No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
- ⇒ No vehicle sales or exhibiting of vehicles for sale are, or will be, carried out;
- ⇒ There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time;



**GS Chapman Vehicle Body Repairs – The Business**

- 1.8 The business was founded in April, 2008 and is now a limited company with 2 Directors: Graeme and Deborah Chapman. Full time employment is provided for Graeme Chapman and part-time administrative employment is provided for Mrs Chapman. The business also engages additional self-employed individuals for approximately 20 hours/ week for body repair work and has employed local school leavers on full-time apprenticeship schemes in conjunction with Stevenson College, Edinburgh. The business now needs to employ an additional full time skilled worker, but is unable to do so due to physical working conditions of the existing premises and the lack of security offered by the limited unexpired term of the lease.
- 1.9 Abbreviated accounts for 2014/15 and 2015/16 were provided with the original application in order to demonstrate business' viability.
- 1.10 GS Chapman are fully booked for several months and have had to turn away over one month's worth of work in 2017 alone due to unsuitable premises, lack of space and manpower.
- 1.11 The business encompasses repairs to all types of **vehicle bodywork**, including spray-painting, panel beating, fabricating, welding, structural repairs and minor cosmetic repairs. Work is carried out across a broad range of vehicles including agricultural, plant vehicles, cars, commercial vehicles, leisure vehicles and motorcycles. Customers include farms, local businesses, (including local garages) insurance companies and trade. The primary market is the **north western Borders, with the focus on West Linton and district**, but also stretching into Peebles and surrounding area. Over the past two years the percentage of customers bringing business from West Linton has risen from 39% to 43%. Much smaller percentages are split between Broughton, Biggar, Peebles, Eddleston and multiple other areas.
- 1.12 GS Chapman's main "competitors" are located in Innerleithen (Harrisons Accident Repair centre) and Penicuik (A.F. Noble & Son). The Manor Garage at West Linton carries out a very limited amount of body work. The business is located in the heart of its customer base and must remain so.
- 1.13 The business needs to be close to its customer base to enable it to offer a collection and delivery service and to carry out on-site vehicle inspections, where required. If the business is unable to continue in the West Linton area then it is likely to lose everything that it has built up over the past eight years.

**GS Chapman Vehicle Body Repairs – Current Premises**

- 1.14 The workshop is within a basic former 1960s agricultural steel-framed building at Sunnyside Farm, Macbiehill which houses a range of businesses including Class 4 and Class 5 uses. It was originally constructed for grain storage and comprises 19 bays, 4 of which are occupied by the vehicle body repair business. The premises are not fit for purpose. Occupation is under a 5 year lease which ends in April, 2018. The premises house the main workshop area, a professional spray booth and welfare facilities.

**Equipment and Operations**

- 1.15 Operational hours are 0830 – 1730 Monday – Friday; 0830 – 1230 Saturday and Sunday (closed). Operational equipment was detailed in the original application.



**2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL**

2.1 The application was refused by Scottish Borders Council on 17<sup>th</sup> January, 2017 on the basis set out below.

- (1) *The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.*
- (2) *Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.*

### 3.0 **GROUNDS FOR LOCAL REVIEW**

- 3.1 The Appellant sets out the following three Grounds for Review, which are explained in considerable detail in the next section 4.0 'Case for the Appellant'.

#### **GROUND 1**

The proposal cannot be accommodated within an appropriate development boundary and the Applicant has demonstrated an economic and operational need for the proposed location at Spylaw.

#### **GROUND 2**

The operation of the business would not be (a) unsympathetic to the rural character of the site and surrounding area or (b) have an unacceptable detrimental landscape and visual impact upon the appearance of the site and its environs.

#### **GROUND 3**

The proposal has raised no concerns with the Council's Roads Planning Service or Environmental Health. The proposal has received support from the Community Council and no objections from members of the public. The proposal is strongly **supported** by the Council's Economic Development Section and no comment was provided by the Landscape Section.

#### 4.0 CASE FOR THE APPELLANT

4.1 It is fully acknowledged that adopted Local Development Plan policy (ED7) relating to business development in the countryside includes the following requirements:

- a) The development must be used for a use which is appropriate by its nature to the rural character of the area; or
- b) The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement.
- c) The development must respect the amenity and character of the surrounding area;
- d) The development must have no significant impact on surrounding uses, particularly housing;
- e) The developer will be required to provide evidence that no appropriate existing building or brownfield site is available;
- f) The development must take account of accessibility considerations;
- g) The development must take into account siting and design criteria as set out in policy.

4.2 It is robustly asserted by the Appellant, and supported by detailed narrative within this Statement, under 3 Grounds of Appeal, that the proposal is able to meet all these criteria (a) – (g) in the specific context of the site. It is, however, also recognised, that class 5 'industrial' uses would more commonly be located within a settlement boundary.

4.3 In the event that Members have their own doubts about the satisfaction of any particular criterion, this application certainly warrants the granting of an **exceptional approval** for many reasons:

- The Planning Officer has accepted that a site within or close to West Linton (specifically) is necessary for the business to relocate onto within the next 12 months. The business has a firmly established Client base in the area;
- The single allocated industrial site within West Linton is not available and has not been available since its allocation in the 1990s due to an "unwilling owner". Extensive enquiries have been made;
- There are no suitable brownfield sites in or around West Linton and landowners who have been approached are unwilling to sell land for the premises;

- Previous applications (e.g. 15/01260/FUL) show that the Planning Authority is not willing to site industrial use on the edge (just outside) of West Linton;
- The proposal will not have detrimental landscape impact;
- The proposal is sited in an area EXTENSIVELY populated with large (100m + long) poultry units. The single agricultural type shed will only measure 24.4m x 12m;
- The Roads Planning Service raised no objections to the proposal;
- It is acknowledged by the Case Officer that there would be no detrimental impact upon residential amenity;
- There is no objection from Environmental Health;
- There were no public objections;
- There was no comment from the Landscape Officer;
- No mechanical repairs are, or will be, carried out, so there are, and will be, no mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
- No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
- No vehicle sales or exhibiting of vehicles for sale are, or will be, carried out;
- There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time;

**GROUND 1: THE PROPOSAL CANNOT BE ACCOMMODATED WITHIN AN APPROPRIATE DEVELOPMENT BOUNDARY AND THE APPLICANT HAS DEMONSTRATED AN ECONOMIC AND OPERATIONAL NEED FOR THE PROPOSED LOCATION.**

- 4.4 This first Ground of Appeal deals specifically with points (b) and (e) of the LDP policy set out above at 4.1 – *“The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement ” and “The developer will be required to provide evidence that no appropriate existing building or brownfield site is available.”*
- 4.5 Scottish Planning Policy (SPP), 2014 makes certain requirements of the planning system including: (parag. 93)
- *“Promote business and industrial development that increases economic activity while safeguarding and enhancing natural and built environments.*
  - *Allocate sites that meet the diverse needs of the different sectors and sizes of businesses... in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities”*
  - *Give due weight to net economic benefit of proposed development.”*
- 4.6 Further, parag. 75 states that the planning system should:
- *In all rural areas, promote a pattern of development that is appropriate to the character of the particular rural area...*
  - *Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.”*
- 4.7 It would appear that the Council has not allocated deliverable industrial land within the settlement of West Linton. It is also considered that the Case Officer has failed to take into account the specific and altered “character of the local area”. Please refer to Fig 6 (page 23) and parags 4.42 – 4.45.
- 4.8 At consultation, the Council’s Economic Development Section’s responded in a **supportive manner, recognising:**
- The “*extremely scarce*” nature of “*available sites within Tweeddale*”;
  - The lack of availability of the single site at Deanfoot Road, despite its ‘industrial’ allocation;
  - ☞ The efforts made by the Appellant in trying to identify a suitable site in or near to an appropriate settlement;

- The increased work capacity that could be accommodated within the single purpose built shed being proposed;
- The potential job creation opportunities in the rural area that could arise for one additional skilled and one unskilled worker as well as retention of existing labour;
- The Applicant's strong desire to work with Business Gateway and engage in support offered by the Local Growth Advisory Service;
- The severe shortcomings of the existing premises in terms of tenure and quality;
- The lack of space, inability to attract staff due to quality of workplace and hence the limitations in capacity.

- 4.9 In the acknowledged absence of an available site within West Linton, the Planning Officer suggests that a site *"in close proximity to the settlement"* should be found. The Appellant notes that policy PMD4 'Development Outwith Development Boundaries' notes that *"proposals for development outwith development boundaries, and not allocated on proposals maps will normally be refused."* The policy notes that exceptional approvals may be granted where the proposal is a job generating development in the countryside with an economic justification under the above-noted rural business policy ED7.
- 4.10 It is, however, noted by the Appellant that in October, 2015, John Swan Garage Services made an application for a motor vehicle repair garage 200m outside the settlement boundary of West Linton, along Deanfoot Road. The application was refused. This site was deemed to be unacceptable as locating an 'employment use' outside the settlement boundary and out with an existing or allocated site would be contrary to policy. In this case the Community Council stated *"The natural site for the business is land zoned for employment to the west, an area that has been discussed over the years, in which it is difficult, if not impossible, for local businesses to obtain plots"*
- 4.11 It is noted that the Planning Officer, in her report, also suggests finding a "brownfield site" within West Linton. In short, no such appropriate exists.
- 4.12 The Appellant has expanded upon existing information (see two enclosed letters) confirming the non-availability of sites in or around West Linton. This is not 'new information', but greater detail on the already-made statement within the original application that no such sites were available. Several landowners were approached and confirmed verbally that they did not have land available, but only two were willing to issue a letter. Given that siting the premises on land just outside the development boundary would be contrary to Local Development Plan policy, it is unreasonable to

have expected the applicant to have been aware that the Officer would seek an in depth appraisal at application stage of sites on which the location of the proposal would be contrary to policy, particularly in light of the above mentioned 2015 garage application in an edge-of-settlement location on Deanfoot Road.

4.13 The current application by Bordermix at Dolphinton (17/00087/FUL) similarly demonstrates a lack of industrial land in and around West Linton. The Applicant in that case has been able to obtain written confirmation from several substantial local landowners in the West Linton area to confirm that they do not have any agricultural, or other, land available for industrial development.

4.14 The Planning Officer states, in her report:

***“I consider it material that Economic Development anticipates that the Applicant is liable to have experienced difficulties in attempting to secure an existing or allocated industrial site in the wider area, including West Linton.”***

***“I therefore accept that the Applicant does have a need to identify new premises in the West Linton area, due to shortage of suitable and available existing and allocated industrial sites”***

4.15 Unfortunately the Officer’s realistic approach ends when the Officer considers it to be “a leap of faith” to suggest that this means that the proposed site at Spylaw is acceptable. The Officer does not, however, provide any positive suggestion whatsoever, of where the Appellant *might* site his business, after clearly acknowledging there to be no available land in or around West Linton and district.

4.16 The Officer, rather unpalatably, suggests that the siting of the proposal is an attempt to “minimise costs by developing land they own”. In reality, the proposal stems directly out of the lack of identification, by the Council, of effective and available “employment land” in West Linton. **The single site that is allocated is not available.** The Appellant having lived and worked locally during his entire life would be fully aware if there was a suitable site available in or on the edge of West Linton.

4.17 It is noted that the Planning Authority has been willing to support local businesses at Sunnyside, including several class 4 and 5 uses. Sections 2.1 – 2.3 of the Supporting Statement which accompanied the original application 16/01174/PPP details significant and relevant planning history relating to the applicant’s current premises at Sunnyside.

Here, *numerous* applications were granted in 2006 -2008 permitting multiple changes of use from the agricultural building to class 4 business uses and class 5 industrial uses.

- 4.18 It is thus clear that Class 5 use has been accepted by the Planning Authority in the locality, within 5km of the proposed site. Despite this, the Officer states that *“it is not material that the Applicant’s business currently operates from a rural site elsewhere”*. Whether the Officer considers it to be material or not, it is fact that (a) the Planning Authority has permitted the Appellant’s use previously, (b) a successful business has been built up over an 9 year period, and (c) that this employment-generating business now has nowhere to go and its future is at stake.
- 4.19 The Applicant would have been willing to consider suitable sites in Peebles or West Linton, but there appear to be none. The Applicant has made several verbal enquiries, and a formal written enquiry, in 2015 and 2016 to the owners of the single allocated industrial site on Deanfoot Road, West Linton (letter enclosed). No positive response was received to verbal enquiries and no response *at all* was received to the written enquiry, most recently in summer 2016. Whilst allocated for industrial use **since the 1990s, this site is not available**, in practice. The Applicant’s agent made direct enquiries with Estate Agents, including CKD Galbraith, and monitored commercial property websites, for suitable available sites/ buildings within the northern Scottish Borders. No suitable premises or land have been located in Peebles, Broughton, West Linton (or Penicuik).
- 4.20 In 2008, when the Appellant was setting up business, he did consider South Parks in Peebles. The Appellant states that the marketing particulars specifically stated “no motor trade” business. It is for this reason that the business located at its current rural premises. It is acknowledged that development land is available at South Parks at present. Aside from being away from the established customer base, the land is for sale at a price significantly in excess of what a small local business can afford.



**GROUND 2:** The operation of the business would not be (a) unsympathetic to the rural character of the site and surrounding area or (b) have an unacceptable detrimental landscape and visual impact upon the appearance of the site and its environs.

- 4.21 This second Ground of Appeal deals with the points in the 'rural development' policy (ED7) set out 4.1 above relating to the need for the proposal to be appropriate to, and respecting, the rural character and amenity of the area and also being appropriately sited and designed (i.e. points (a), (c), (d) and (g).
- 4.22 Policy PMD2 'Quality Standards' is also relevant under this Ground. This policy (under the heading 'Placemaking and Design') requires proposals to be of a scale and massing appropriate to its surroundings, be finished externally in suitable materials, be compatible with, and respect the character of, the area and have appropriate boundary treatment.
- 4.23 Both these policy requirements are met, as detailed in the remainder of this section.
- 4.24 The Planning Officer believes that "*the proposal is both in the short-term and in the long-terms, unacceptably injurious to the amenities of this rural site and the surrounding area*". No details are given, by the Officer, as the nature of scale of these purported "injurious aspects". Nor does it appear that the Officer deemed it necessary to consult with the Council's Landscape Section. No comments were consequently made by the Landscape Section. The proposal is for an agricultural style shed in a rural location with one existing dwelling (owned by G. Chapman) nearby. It is also noted that only one roadside dwelling lies between the A701 and the proposed site. The limited proposed activities have been clearly set out and the Appellant feels that the Officer has 'stereotyped' his business unreasonably.
- 4.25 The site can be screened/ assimilated into the rural environment by landscaping and tree planting based on a scheme controlled by the Council at the next stage of the planning process. The photographs provided with the original application show that the site will be barely visible from anywhere. The parking area is behind the shed and is wholly screened from the road. The Appellant and his Agent fail completely to understand the nature of the purported "injurious qualities", particularly in the context of the immediate area and the significant number of huge poultry sheds, (regardless of their place in the Use Class Order- which does, not of course affect their visual impact). This point is examined further at section 4.42 – 4.45.

- 4.26 The Officer's report states that "in planning terms there would be no meaningful distinction to be made between a vehicle body repair workshop and a mechanical repair workshop". While this is true in terms of the Use Class Order (both Class 5), given that one of the Officer's reasons for refusal specifically relates to the "operation of the business" and related impact upon the character of the area it asserted that there is significant difference in planning terms (in the widest sense) between the two uses.
- 4.27 The throughput of customer's vehicles for a body workshop is far lower than a mechanical repair garage would necessitate. Body work jobs generally take longer. There will be no mechanical vehicle repairs or car sales – only bodywork repairs. The proposed premises will appear as an agricultural building. The landscape scheme will be presented to, and approved by, the Planning Authority at 'detailed' stage. The Applicant is willing and able, in terms of extent of ownership, to provide more extensive tree/hedge planting, as desired.
- 4.28 A series of photographs was taken, as part of the original application, towards the site from the Shiplaw to Lamancha minor public road and also *from* the site outwards. These are again set out within Appendix 1 to this document, together with a map index of photograph positions. It is clear that the site has limited visibility other than from immediately adjacent positions. The planning Officer appears to disagree with this assertion, but has provided no basis for doing so. In short, the photographs appear to have been disregarded.
- 4.29 The Officer expresses the view that the site is "open and elevated in views from much of the surrounding landscape". In reality, approaching from the north, one cannot even see the site owing to the road gradient/ topography until one is upon it. This is clearly demonstrated in Fig 1 above and other photographs provided at Appendix 1. From the Shiplaw road, (to the west and south), again the site is barely visible, as demonstrated by the aforementioned photographs.
- 4.30 Despite the elevated position, the rolling topography is such that the building would be visible from a very limited number of locations on the Shiplaw to Lamancha Road. It is clear from the photographs at Appendix 1 how the land falls away from the site. It is unlikely that the building would be visible from the A701 or A703 on account of topography. The photographs taken *from* the site looking towards more distant views provide an indication of sightlines towards the site. Given the small scale of the building, particularly relative to nearby multiple poultry houses, it would not feature in distant views from distant surrounding high ground such as the Lammermuir or Pentland Hills.

- 4.31 The Officer acknowledges that the building may resemble an agricultural building but appears to have concerns about *“all vehicle movements and yard activities”*. Vehicle movements will comprise one or two cars arriving/ leaving per day, a weekly delivery and employees’ cars. The Appellant is unclear as to the envisaged *“yard activities”*. Cars are worked upon indoors in a necessarily controlled environment.
- 4.32 The Officer is of the view that the site would not be well screened, saying that the indicative planting proposals would be insubstantial and would not constitute an appropriate level of screening. The Officer was, however, fully aware that the Appellant is entirely willing to present a scheme of landscaping to the Planning Authority for approval at the next stage in the planning process, even stating *“it would be possible to improve markedly the proposed landscaping treatment of the site through the establishment of new woodland shelter belts (indeed the Applicant is agreeable to enhancing its landscape proposals if required”*
- 4.33 With regard to concerns over future use for the building it is important to understand that the building will essentially be an agricultural portal framed shed which is internally fitted-out for the Appellant’s bespoke purpose. It could thus readily revert to agricultural use.
- 4.34 The Appellant wishes to comment upon the Officer’s concern that a planning condition (which could be placed upon a permission to regulate use of the premises to ensure that they are used by the Applicant’s business for the intended use – to prevent use by general industry) might be *“liable to be characterised as unnecessary and unreasonable”* in planning terms and may therefore be liable to challenge in time, if not immediately.
- 4.35 There are two aspects to this statement: (a) the potential use of a personal permission (permission limited to Appellant only) and (b) the potential use of an appropriately worded planning condition. Both are possible (and acceptable) routes to secure the necessary regulation.
- 4.36 If the Planning Authority is of the view that wider/ general class 5 industrial use is inappropriate for the site for sound planning reasons, it should be perfectly possible to word a robust and appropriate planning condition. There is also the option of using a legal agreement to regulate the use of land, which is, again, acceptable to the Appellant. It is important that this specific case is assessed on its own merits, not a theoretical concern about what may, or may not, happen in the future with regard to an entirely different business.

- 4.37 The Officer states that *“There might be potential to require, by conditions, that the Applicant does not engage in potentially related operation and activities which it has categorically advised it does not seek to pursue, specifically the operation of an ancillary scrapyard or old tyre storage areas, or ancillary vehicle sales”*. It is confirmed that this restriction would be entirely acceptable to the Appellant. Again the Officer expresses concern that such conditions may be challenged in the long term. Again, the Appellant requests that the appeal be treated on its own merits and not upon a theoretical future concerns.
- 4.38 The Officer is of the view that *“loss”* of such site would not be mitigated by substantial landscaping. Looking at the *“loss”* in perspective, this amounts to 0.15ha of Grade 3:2 agricultural land; most certainly not ‘prime agricultural land’, on a site that can barely be seen from anywhere.
- 4.39 Importantly, neither the A701 nor the A703 are visible when standing on the site. The ridge height of the proposed building, as shown on the indicative elevation drawing, is 4.4m and eaves height is 3.1m.
- 4.40 Landscaping and screen planting will further limit the visibility of the building to people travelling between the A701 and A703 on the minor D class road. The access/ parking area will also intentionally be screened to vehicles travelling from the A703 direction.
- 4.41 Parked cars would not be visible to users of the public road, in accordance with the layout shown on the indicative Site Plan;
- **No car sales occur or will occur** in association with this bodywork repair business. This has been made clear within the previous, 2015, application and the application which is subject of this appeal.
  - The Applicant is from an agricultural background and has a strong desire to keep Spylaw appearing as an agricultural unit. It is confirmed that neither high fencing nor large roadside signs will be sought or required. Traditional boundary treatments will be used, including dry stone dykes and agricultural fencing. Boundary treatment and landscaping can be controlled by the Planning Authority at the next stage in the planning process.
- 4.42 The numerous **‘industrial-scale’ poultry sheds** in the immediate locality around the appeal site fall under *“agricultural use”* (not industrial use), but the reality (and a material consideration) is that **their scale and appearance is far more ‘industrial’ in nature and scale than the proposed relatively modest building**. The distribution of

many of the numerous poultry sheds in the locality can be seen from the aerial photograph below. Clearly, the proposed building (location shown) is of a much smaller scale than these buildings.

**Fig 6: Proposed site within a landscape of 'industrial scale' poultry houses all over 100m in length**



- 4.43 By way of recent example, an extract from the Officer's Report (same Case Officer) regarding one of the latest additional poultry sheds 16/00997/FUL (identified on the aerial photograph below) reads:

***"LANDSCAPE:** This proposal would be an addition to a number of similar single sheds now positioned in the area in a fairly dispersed arrangement with a larger massing of them immediately south at the Millennium Farm. Although this shed and associated works might be visible for a short section from the A703 its addition should not have a severe impact on landscape and visual amenity due to the existing dispersed layout of sheds, the nature of the surrounding landform and the proposals for mitigation..."*

- 4.44 Despite one of the latest poultry shed proposals (a **2,800 sqm** shed now under construction) being visible from the A703, just south of Leadburn, it was deemed to be acceptable, yet a an agricultural type shed of **293 sqm** (almost one tenth of the size) is deemed to have significant visual impact from a D class minor road, in a location where it can barely be seen from anywhere. The reasonableness and consistency of this view is questioned.
- 4.45 **The Appellant appreciates the Use Class differentiation between Class 5 industrial use and agricultural use, but feels it is valid and necessary to make the point shown in the aerial photograph**
- ❖ The poultry sheds are typically (well) in excess of **100m** in length (typically 100m -150m) and 20m wide.
  - ❖ The proposed 'agricultural-type' shed measures 24.4m x 12.2m x 4.4m.

**Fig 7: Poultry House 1km south of the appeal site on the same D17/1 road. (Typical in scale to the multiple others marked on aerial photograph)**



- 4.46 **With regard to other landscape changes, it is noted that the windfarm at Cloich has recently been approved. The turbines will be clearly visible from Spylaw and will alter the landscape in this location.**



**GROUND 3.** The proposal has raised no concerns with the Council's Roads Planning Service or Environmental Health. The proposal has received support from the Community Council. The proposal is strongly **supported** by the Council's Economic Development Section.

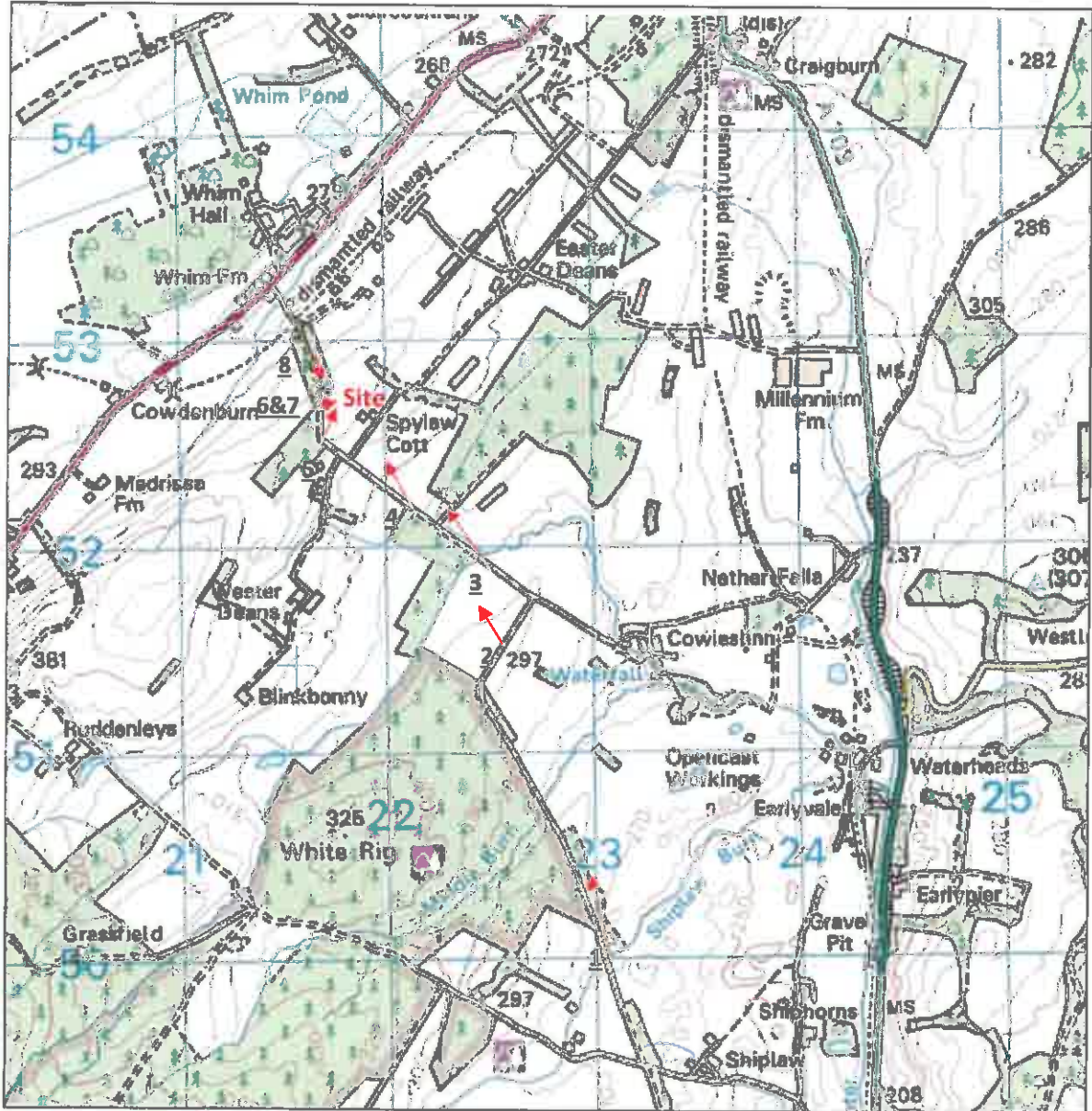
- 4.47 This third Ground of Appeals deals with, firstly, the point in LDP policy on rural development (set out parag 4.1 above) relating to the need for the proposal to have had regard to "accessibility considerations" and also considers other important consultation responses.
- 4.48 At consultation, in response to application 16/01174/PPP, the Roads Planning Officer reiterated his support offered in response to the previous application (15/01410/PPP), stating:
- The business currently operates in a rural location, therefore it is almost a like for like replacement in terms of location;
  - The fit-for-purpose building will be located on land where the Applicant currently resides, which potentially reduces commuting traffic;
  - The traffic generation associated with this type of **business is generally less than a general mechanical repair garage**;
  - The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701; (**only 550m**)
  - The proposed access to the site is located at a point where traffic speeds are low and good visibility can be achieved in all directions;
  - The access (into the premises) must be constructed to the specification stated.
- 4.49 The Applicant has taken accessibility considerations into account. The distance of the proposed site from the A701 is only c. 550m, as compared to the distance from the existing site at Sunnyside to the A701 of 1,200m.
- 4.50 The Planning Officer's concerns regarding customers and delivery vehicles being routed "into the countryside to access a remote rural site" are unjustified. The proposed location of the business is closer to the A701 than the existing premises. Importantly, Roads Planning Service has offered support for the proposal.
- 4.51 In terms of vehicle movements, figures have been obtained from the business' accountant, based upon invoicing. These confirm that on average there is one customer vehicle movement per day associated with the body repair workshop. Supplier vehicle

movements are occasional only, thus the number of vehicle movements generated by the business on a daily basis is insignificant.

- 4.52 Both Roads Planning Service and Economic Development are of the view that the operation of the business from the appeal site would compare more favorably than the operation from the current base.
- 4.53 The Council's Environmental Health Section did not object to the proposal, having been satisfied by the information provided by the Appellant within the original application.
- 4.54 There has been no comment whatsoever from the Council's own Landscape Section, despite the Case Officer's view that visual impact is an issue, which seems surprising.
- 4.55 The Case Officer has confirmed that with respect to water supply, drainage, site levels and planting, these could all be required at the detailed application stage.



APPENDIX 1 – Photograph Locations and Photographs



**Fig 1: Location 1 - Travelling north (site not visible)**



**Fig 2: Location 2 - Travelling north east (site not visible)**



**Fig 3:** Location 3 - Travelling north-west past poultry shed (Dunrig – Applicant's dwelling is visible)



**Fig 4:** Location 4 - Travelling north-west towards Spylaw (site not visible)



**Fig 5: Location 5 - Travelling north (site would be visible)**



**Fig 6: Location 6 - Travelling north (site would be visible)**



**Fig 7:** Location 7 – Adjacent to site. (site visible with Dunrig (dwelling) in the background)



**Fig 8:** Location 7 – Travelling north towards access point (site visible)



**Fig 9:** Location 8 - Travelling south (some, but limited, visibility of building)



**Fig 10:** On site. View north-east. A701 not visible

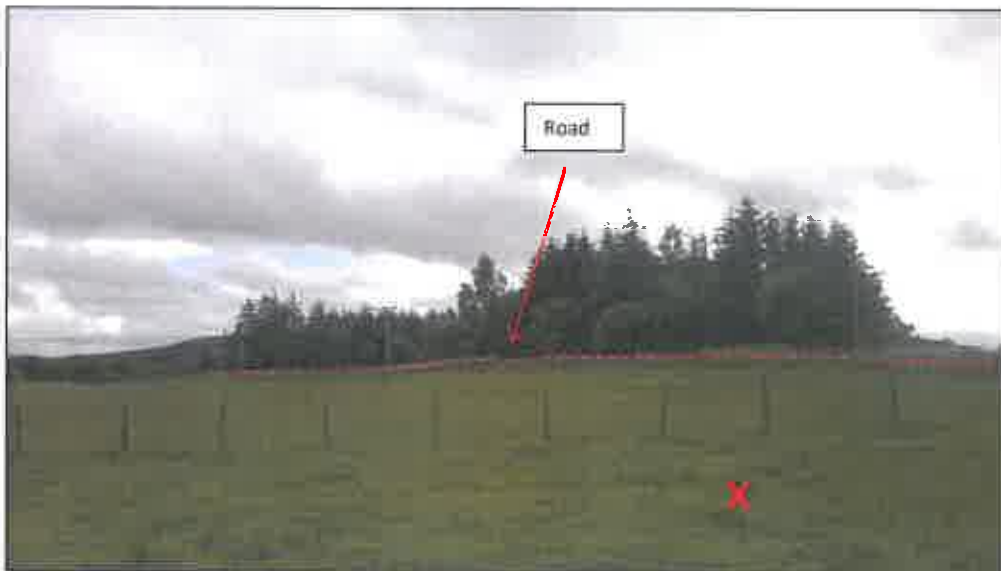




**Fig 11:** On site. View south east. A703 not visible



**Fig 12:** On site. View west to minor public road



**Fig 13:** On site. View north





# GS Chapman Ltd

Vehicle Body Repairs \_\_\_\_\_



Unit 1  
Sunnyside  
Macbiehill  
West Linton  
EH46 7AZ

Tel: 07718 923 541

Registration No. SC419049

22.07.16

Dear Mrs Bell,

Further to our previous telephone conversation several weeks ago, I am writing to you to ask if you have given any further consideration as to whether any of the land on Deanfoot Road, West Linton, belonging to yourself, would be made available for purchase in the immediate future? As discussed previously, I would be interested in exploring the possibility of purchasing a portion of this land with a view to erecting a vehicle body repair garage for my existing business.

Many thanks for your time and hope to hear from you.

Yours sincerely

Graeme Chapman

**FIRM OF JOHN DYKES  
SOUTH SLIPPERFIELD FARM  
WEST LINTON  
PEEBLESHIRE  
EH46 7AA**

13-03-2017

To whom it may concern.

**GS Chapman Vehicle Body Repairs**

Dear Sir/Madame

I have been asked to confirm that Graham Chapman has approached me as a local landowner in search of available land for him to buy.

I have known Graham for many years now and have been aware of and used his business since its inception. In order for him to be able to continue developing and investing in his successful business I fully understand the need for him to be operating in securely owned premises.

I do own land near to West Linton but we are not currently planning to make any available for sale.

I know the land that Graham owns and that this is where he'd like to develop his business. In my opinion this would be equally as suitable as where he currently operates and would provide the long-term security of 100% ownership. Businesses such as this are extremely important for the community infrastructure by providing employment and population in the rural areas.

I hope you will look upon his current application favourably.

Yours Sincerely



Hamish Dykes.





## **BLYTH FARMS**

28th March 2017

Dear Graham,

We have discussed the possibility of selling you a plot of land for the expansion of your business. Although we would like to support you in this venture, which we think will be an asset to the community, we are not currently in the position to be selling land.

We would like to wish you every success in sourcing a location for your thriving business and we are disappointed to not be able to aid you in the venture at this time.

Yours faithfully,



**Alister Laird**

**From:** [REDACTED]  
**Sent date:** 21/02/2017 - 18:29  
**To:** graemechapman [REDACTED]  
**Subject:** Re: Planning application

Hello

As far as I'm aware we hadn't been consulted about your application. It was noted at our meeting last week that we haven't been getting consulted about all applications in our area and we intend to have that situation sorted as quickly as possible.

It was also mentioned by one of our members that your application had been refused. The discussion that followed confirmed that we are keen to support developments in our area that contribute to employment and a range of community facilities. It was noted that if you were appealing the decision then we would support that appeal.

Hope this helps.

Iain

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**Application for Planning Permission**

**Reference : 16/01174/PPP**

**To : GS Chapman Vehicle Body Repairs per Erich Planning & Property Consultants Per Kate Jenkins 57 Northgate Peebles EH45 8BU**

With reference to your application validated on **21st September 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of vehicle body repair workshop and associated parking**

**At : Land North West Of Dunrig Spylaw Farm Lamancha West Linton Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the reason(s) stated on the attached schedule.

**Dated 17th January 2017  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



.....  
**Chief Planning Officer**

**APPLICATION REFERENCE : 16/01174/PPP****Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

**FOR THE INFORMATION OF THE APPLICANT**

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

**PLANNING SUPPORTING STATEMENT**

**Erection of vehicle repair workshop and associated parking | Land West of Dunrig, Spylaw  
Farm Lamancha West Linton Scottish Borders EH46 7BG**

**on behalf of**

**Graeme Chapman, GS Chapman Ltd**

**16 September, 2016**

## 1.0 APPLICATION AND BACKGROUND INFORMATION

- 1.1 This application in principle (PPP) is submitted by Ericht Planning & Property Consultants on behalf of Graeme Chapman, GS Chapman Ltd. The application is for planning permission in principle for the erection of a vehicle body repair workshop (not a mechanical repair garage), landscaping and associated parking on land owned by the Applicant at Spylaw, Lamancha. The application area is 1,533 sqm (0.1533 ha).
- 1.2 Notwithstanding the PPP nature of the application, indicative drawings have been prepared by Richard Allen, Architect, including: Site Plan, Elevations and Floor Plan in order to provide the Planning Authority with as much information as possible at PPP stage. The siting of the building, access, vehicle parking arrangements and proposed landscaping are indicated.

### **GS Chapman Vehicle Body Repairs – The Business**

- 1.3 The business was founded in April, 2008 and is now a limited company with 2 Directors: Graeme and Deborah Chapman. Full time employment is provided for Graeme Chapman and part-time employment is provided for Mrs Chapman (administrative work). The business also engages additional self-employed individuals for approximately 20 hours/week for body repair work and has employed local school leavers on full-time apprenticeship schemes in conjunction with Stevenson College, Edinburgh. The business now needs to employ an additional full time skilled worker, but is unable to do so due to physical working conditions of the existing premises and the lack of security offered by the limited unexpired term of the lease.
- 1.4 The business encompasses repairs to all types of vehicle bodywork, including spray-painting, panel beating, fabricating, welding, structural repairs and minor cosmetic repairs. Work is carried out across a broad range of vehicles including agricultural, plant vehicles, cars, commercial vehicles, leisure vehicles and motorcycles. Customers include farms, local businesses, (including local garages) insurance companies and trade. The primary market is the north western Borders, with the focus on West Linton and district, but also stretching into Peebles and surrounding area.



- 1.5 It is important to note that:
- No mechanical repairs are, or will be, carried out;
  - No vehicle sales or exhibiting vehicles for sale are, or will be, carried out;
  - As a consequence of no mechanical repairs being carried out, there are, and will be, no separate mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
  - No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
  - There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time.

#### **GS Chapman Vehicle Body Repairs – Current Premises**

- 1.6 The workshop is within a basic former 1960s agricultural building at Sunnyside Farm, Macbiehill which houses a range of businesses including Class 4 and Class 5 uses. It was originally constructed for grain storage and comprises 19 bays, 4 of which are occupied by the vehicle body repair business. The premises are not fit for purpose. Occupation is under a 5 year lease which ends in April, 2018. The premises house the main workshop area, a professional spray booth and welfare facilities.
- 1.7 The large single span building is constructed in steel frame. It appears “*industrial*” in character in accordance with the Officer’s report in 08/01167/FUL (partial change of use from Class 4 to vehicle mechanical repair – Applicant John Swan).

#### **Equipment and Operations**

- 1.8 Operational hours are 0830 – 1730 Monday – Friday; 0830 – 1230 Saturday and Sunday (closed). Operational equipment includes:
- Fully compliant, purpose-built automotive spray booth which incorporates filtered extraction plant for the removal of airborne paint material. The equipment provides a controlled environment for the paint spraying of a body repair job. It is used once a day for an average of 1-2 hours at a time. The noise level generated is low. The equipment cannot readily be heard from the outside of the building.
  - A rotary screw air compressor;
  - A 2-post vehicle lift;
  - A selection of electric and pneumatic hand tools.
- 1.9 Whilst the application is in principle, in order to provide full understanding, the following information has been supplied by the Applicant.

- Paint goods (primarily waterbased) to be stored in a purpose-built paint store.
- The paint store will also house the waste paint recycling unit for the cleaning of sprayguns etc.
- ☒ Waste material uplift contracts will be implemented.

## 2.0 PLANNING HISTORY

### Current Premises – Sunnyside

- 2.1 In the first instance, brief consideration is given to various applications which relate to the current building. The Applicant occupies 4 (end) bays of a 19 bay building.
- 2.2 Planning information about the entire 19-bay building: Formal change of use of a disused agricultural building (to Class 4 Business) was granted in May, 2001 and in May 2006 (01/00373/COU and 06/00603/FUL).
- 2.3 Within the building, there have been numerous individual applications which have been consented for change of use from Class 4 Business to Class 5 Industrial, as set out below. Class 5 Industrial use has thus been accepted at Sunnyside under 3 separate applications.
- ☒ A 2008 application (08/00242/FUL) was made for the partial change of use from Class 4 to vehicle body repair workshop (Class 5). This was granted on 17<sup>th</sup> April, 2008. (Applicant: Graeme S Chapman);
  - A 2008 application (08/01167/FUL) was approved for partial change of use from Class 4 to vehicle mechanical repair workshop Class 5. (Applicant John Swan);
  - A 2008 application (08/01331/FUL) was approved for partial change of use from Class 4 to Class 5 use.

### Proposed Site – Spylaw

- 2.4 A planning application was submitted by GS Chapman Ltd for the erection of a vehicle repair workshop and associated parking in November, 2015. It was refused on 19<sup>th</sup> January, 2016.
- 2.5 The application was refused on the following basis:

- (1) *The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development*

*Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.*

- (2) *Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Plan Policies D1 and G1 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.*

### 3.0 PLANNING POLICY CONTEXT

- 3.1 Relevant local planning policy is contained within the Scottish Borders Local Development Plan – policy ED7 ‘Business Tourism and Leisure in the Countryside’ and policy PMD2 – ‘Quality Standards’.

#### **Policy ED7 Business, Tourism and Leisure in the Countryside**

- 3.2 Policy relating to business development in the countryside includes the following requirements in respect of the proposal:

- The development must be used for a use which is appropriate by its nature to the rural character of the area; or
- The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement.
  - The development must respect the amenity and character of the surrounding area;
  - The development must have no significant impact on surrounding uses, particularly housing;
  - The developer will be required to provide evidence that no appropriate existing building or brownfield site is available;
- The development must take account of accessibility considerations;
- The development must take into account siting and design criteria as set out in policy.

#### 4.0 ASSESSMENT OF PROPOSAL

4.1 The purpose of this section is to address shortfalls in information within the previous application and to demonstrate that the proposal meets with the provisions and intentions of Scottish Borders Local Development Plan policy. For completeness, the shortfalls/ issues with the previous application 15/01410/PPP were noted, by the Planning Officer, to be:

- No details are provided in support of re-location to the site, beyond a concern to remain centrally located relative to customers;
- No business case has been provided to substantiate the business' viability in financial and/ or functional terms;
- No Planning Statement has been provided to account for how the proposal would meet with planning policy;
- No Planning Statement has been provided to justify the proposal being the subject of an 'exceptional approval'. No reasons have been provided to override the need to determine the application in accordance with the requirements of policy;
- The Supporting Statement provided does not engage with planning policy/ planning implications;
- No account has been given of the detail of any site selection considerations that have informed the business' identification of the application site as being most appropriate for it to be re-accommodated in planning terms;
- No account has been provided of efforts to secure premises more acceptable in planning terms, within a settlement;
- Insufficient justification has been provided as to why the site needs to be operated from the location proposed;
- In the absence of a detailed design statement, there is concern that the building could have unacceptable landscape and visual impacts, particularly given the elevated nature of the site;
- There is concern over the visual impact of parked cars awaiting service or collection or potentially being stored for ancillary car sales;
- There is concern over the need for the business to be visible because of "vehicles for sale";
- There is concern that there would be no ability to ensure that the existing (leased) premises will revert to agricultural use – so there would be a net rise in industrial-use buildings in the local area;
- The Officer does not support the Roads Officer's comments and refers to the need to travel along "long sections of narrower country roads";
- Concern is expressed about potential to control the future use of the building in the event that the proposed use does not prevail.

**Proposed Site**

- 4.2 The proposed site is at Spylaw, a 10ha (25 acre) former farm, owned by the Applicant, which lies a distance of 5km from the current premises at Sunnyside. The proposed building would measure (i) 24.4m x (b) 12.2m x (h) 4.4m (298 sqm footprint) and be a purpose-built steel framed building which, externally, would appear as an agricultural building with green-painted box profile insulated cladding. The building would have two sectional roller shutter doors on the north-east and north-west elevations. Reference should be made to plans included.
- 4.3 It is likely that solar panels will be erected on the roof to enable the business to increase its energy efficiency.
- 4.4 Access would be taken off the Eddleston – Shiplaw road at the same location which was supported by the Roads Planning Officer in respect of the 2015 application 15/01410/PPP.

**Existing Premises**

- 4.5 The condition of existing premises occupied by the business is not sustainable for a wide range of reasons: A letter confirming this, in respect of the vehicle lift, has been provided as part of the application documents by R.A. Cox (Garage Equipment).
- The building is not fit for purpose. The structure is unsound and in need of major refurbishment, including in terms of defective roof and water penetration through blockwork walls. The concrete floor is breaking up in places.
  - Tenure does not allow the tenant to carry out alterations or improvements, only like for like repairs. In addition, the unexpired term of the lease is only approximately 1.5 years.
  - There is no draught proofing or insulation and working conditions are extremely challenging and inappropriate.
  - In the winter months internal temperature regularly drops below zero degrees and the water supply freezes. The gable (door) end of the building faces directly into the prevailing wind and is very exposed.
  - The east side of the building floods a few times a year. When this freezes in the winter it can be dangerous.
  - There is no damp proof membrane under the floor. When frost thaws the floor becomes soaking wet.
  - The business relies on a space heater which is ineffective given the level of air movement due to the poor condition of cladding and lack of insulation. The use of energy is therefore extremely inefficient and costly.

- The three phase electricity supply is inadequate for the needs of the business and as a result it often fails completely under load demands made by equipment.
  - The impact of the uncontrollable internal environment upon spraying operations is that they become inefficient in cold temperatures. It is simply impossible to regulate the temperature in a building with various significantly perforated panels.
  - At below 5 degrees, the air compressor ceases to work. Given the elevated position and the poor quality of the building, in the winter months it is not unusual for the internal temperature to drop to/below this level.
- 4.6 In addition, crucially there is uncertainty over the future for Sunnyside and an associated absence of security for this important local business.
- Economic Need, Lack of Alternative Sites and Viability**
- 4.7 There is an economic and operational need for a new site for this successful Scottish Borders-based business due to the deficiencies of the existing premises and the lack of security of tenure. The business has a firmly established Client base within the northern Borders and needs to remain *within the locality* in which it has secured its Client base – the bulk of the work comes from West Linton and District.
- 4.8 The business needs to be close to its customer base to enable it to offer a collection and delivery service and to carry out on-site vehicle inspections, where required. If the business is unable to continue in the West Linton area then it is likely to lose everything that it has built up over the past eight years. The Planning Authority has been willing to support local businesses at Sunnyside, including several class 5 uses.
- 4.9 Roadworthy cars and other vehicles are a fundamental part of modern rural life and the business provides an important service within the local area – which has been proved during the whole life of the business with high demand for its services.
- 4.10 There is a lack of suitable alternative sites with appropriate allocation within settlement boundaries in the northern Borders, as outlined below. The proposed site is owned by the Applicant, is well sited in terms of customer base and will not have a detrimental impact on residential amenity or the landscape. Further detail is provided in later sections.
- 4.11 The Applicant would have been willing to consider suitable sites in Peebles or West Linton, but there appear to be none. The Applicant has made several verbal enquiries, and a formal written enquiry, in 2015 and 2016 to the owners of the single allocated

- industrial site on Deanfoot Road, West Linton. No positive response was received to verbal enquiries and no response *at all* was received to the written enquiry, most recently. Whilst allocated, this site does not appear to be available, in practice. The Applicant's agent has also made direct enquiries with Estate Agents, including CKD Galbraith, and monitored commercial property websites, including Eric Young & Co, for suitable available sites/ buildings within the northern Scottish Borders. No suitable premises or land has been located in Peebles, Broughton, West Linton (or Penicuik).
- 4.12 In terms of the previous application, the Economic Development Officer stated that the Department would normally support the protection and creation of jobs, but felt that the Applicant needed to provide justification in terms of the development plan (which is done herein). **The Officer indicated that use should be restricted to the specific proposed use. It is confirmed that this would be acceptable to the Applicant either by way of planning condition or section 75 legal agreement.**
- 4.13 Abbreviated accounts for 2014/15 and 2015/16 are provided with the application in order to demonstrate business' viability. These are for the information of the Planning Authority and not for publication. The previous Officer's Report and, specifically, the comments of the Economic Development Officer within 15/01410/PPP, indicated that provision of such is required. If further accounting information is required by the Planning Authority this could also be available on a confidential basis.
- 4.14 A full time skilled worker is now needed due to business expansion but the working environment is unreasonable and wholly inappropriate within the current premises. The proposed development would secure the employment of existing employees and one additional person.
- Siting within the Landscape**
- 4.15 The proposal is appropriate by its nature to the rural character of the area. The operations of the business have been clearly set out. Specifically there will be no mechanical vehicle repairs or car sales – only bodywork repairs. The proposed premises will appear as an agricultural building and will be landscaped as proposed within the indicative site plan or as within a scheme to be agreed at 'detailed' stage. Increased tree planting can be provided, if desired by the Council.
- 4.16 A series of photographs have been taken towards the site from the Shiplaw to Lamancha minor public road and also *from* the site. These are set out within Appendix 2, following a map index of photograph positions (Appendix 1). It is clear that the site has limited



- visibility in the locality other than from immediately adjacent positions. Importantly, neither the A701 nor the A703 are visible from standing on the site. The ridge height of the proposed building, as shown on the indicative elevation drawing, is 4.4m and eaves height is 3.1m.
- 4.17 Despite the elevated position, the rolling topography is such that the building would be visible from a very limited number of locations on the Shiplaw to Lamancha Road. It is clear from the photographs how the land falls away from the site. It is unlikely that the building would be visible from the A701 or A703 on account of topography. The photographs taken *from* the site looking towards more distant views provide an indication of sightlines towards the site. Given the small scale of the building, particularly relative to nearby multiple poultry houses, it would not feature in distant views from distant surrounding high ground such as the Lammermuir or Pentland Hills.
- 4.18 The previous Officer's Report suggested that the site will be "*potentially visible from the wider area*". The proposed site offers far lower visibility than the existing site, and unlike the existing site it is specifically not visible from the A701 or any other road apart from the minor public road between Eddleston and Lamancha. The nearest dwelling is at Spylaw – the Applicant's house.
- 4.19 The indicative landscaping has been shown specifically to limit the visibility of the building to people travelling between the A701 and A703 on the minor road. The access/parking area is also partly screened to vehicles travelling from the A703 direction.
- 4.20 Whilst it is acknowledged that the numerous 'industrial-scale' poultry sheds in the local area fall under "agricultural use" (not industrial use), their scale and appearance is far more 'industrial' in nature than the proposed relatively modest building. The distribution of some of the poultry sheds in the locality can be seen from the aerial photograph overleaf. Clearly, the proposed building is of a much smaller scale than these buildings.



Fig 1: Proposed site within a landscape of 'industrial scale' poultry houses



- 4.21 It is also noted that the windfarm at Cloich has recently been approved. The turbines will be clearly visible from Spylaw and will alter the landscape in this location.
- 4.22 The development will respect the amenity and character of the surrounding area and will not have a detrimental impact on surrounding uses. It appears agricultural in scale and nature and the parking area is specifically set to the east site of the building. Whilst the site is in an elevated position, it is not visible from any dwellings. There would be an opportunity to assess the specific design and landscape treatments as the subject of an AMC application.
- 4.23 The Officer acknowledges in his 15/01410/PPP report that *“there would be potential for the workshop building to have the general form and appearance of an agricultural building...”* The Officer then expressed concerns that the building and its operation would *“not be sympathetic to the rural character of the site or its wider landscape setting”*. His reason for this view appears to stem from his view that there would be *“an incongruous appearance of a substantial number of parked non-agricultural vehicles awaiting service or collection, or potentially being stored for ancillary car sales.”* The Officer also refers to a need to be visible to *“display of vehicles for sale”*.

- 4.24 In response to this concern:
- Parked cars would not be visible to users of the public road, in accordance with the layout shown on the indicative Site Plan;
  - No car sales occur or will occur in association with this bodywork repair business. This has been made clear within both the previous and the current application.
  - The Applicant is from an agricultural background and has a strong desire to keep Spylaw appearing as an agricultural unit. It is confirmed that neither high fencing nor large roadside signs will be sought or required. Traditional boundary treatments will be used, including dry stone dykes and agricultural fencing.
- 4.25 In relation to the business' planning consent 08/00242/FUL (Partial change of use from business Class 4 to vehicle body repair workshop –class 5) the Officer stated that *“The building is a significant distance away from the nearest residential property and is not located within a residential area of a town. In this instance there would be no adverse impact on the residential amenity of dwellings.....”* The proposed site, likewise, is located a significant distance from the nearest residential property, other than Spylaw (the Applicant's dwelling). It is noted that the elevation and high visibility of the (existing) Sunnyside site did not appear to be an issue.
- 4.26 The Officer seems to have been particularly concerned, in his assessment of 15/01410/FUL about the possibility of the site being used for any class 5 industrial use. As the Economic Development Officer suggested, it is asserted that the use could be limited to the specific use consented (body work repair garage). This could be done by way of planning condition. This is often done, for example, to restrict Class 2 use in a town centre location to a specific use such as an Estate Agent e.g 13/00137/FUL.
- 4.27 The Applicant would be willing to enter into a section 75 legal agreement to link the premises with the dwelling at Spylaw as a single planning unit if required to do so.

#### **Roads and Accessibility Considerations**

- 4.28 The Applicant has taken accessibility considerations into account. The distance of the proposed site from the A701 is only c. 550m, as compared to the distance from the existing site at Sunnyside to the A701 of 1,200m.
- 4.29 In terms of vehicle movements, figures have been obtained from the business' accountant, based upon invoicing. These confirm that on average there is one customer vehicle movement per day associated with the body repair workshop. Supplier vehicle

movements are occasional only, thus the number of vehicle movements generated by the business on a daily basis is insignificant.

4.30 The Applicant notes that the Roads Planning Officer offered his support for the previous application (15/01410/PPP) subject to the business being tied to the existing dwelling (the Applicant's home) and only used as a vehicle body shop business. Specifically, the Officer stated:

- The business currently operates in a rural location, therefore it is almost a like for like replacement in terms of location;
- The fit-for-purpose building will be located on land where the Applicant currently resides, which potentially reduces commuting traffic;
- The traffic generation associated with this type of business is generally less than a general mechanical repair garage;
- The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701; (only 500m)
- The proposed access to the site is located at a point where traffic speeds are low and good visibility can be achieved in all directions;
- The access must be constructed to the specification stated.

4.31 Whilst the case Officer was unwilling to support the proposal as presented within 15/01410/FUL, he did state, in conclusion that, *"It is reasonably recognised that Roads has not specifically advised of any concern that the local road network could not acceptably accommodate operation of the proposed business from the application site."*

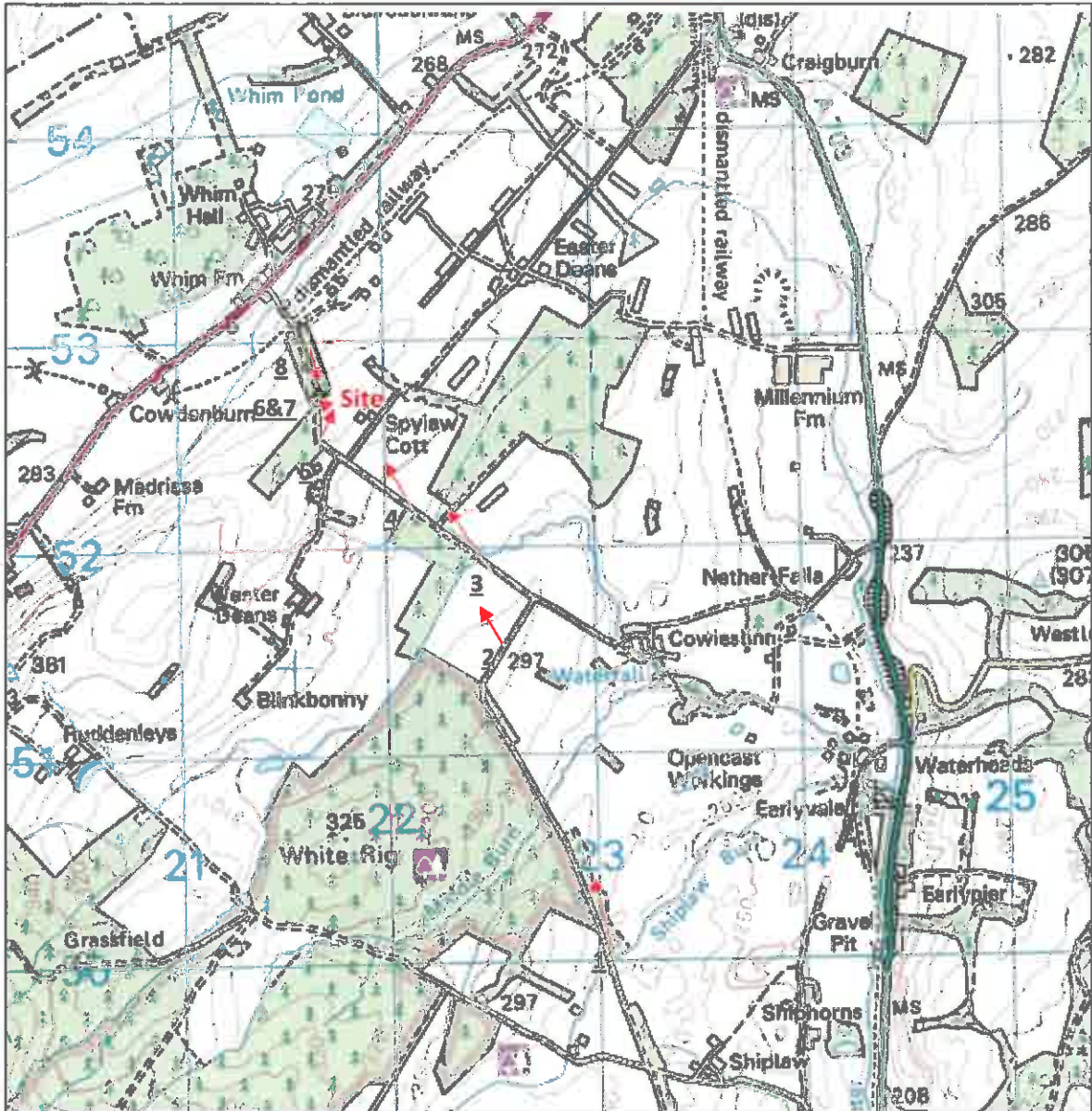
#### **Environmental Health**

4.32 The Council's Environmental Health Officer did not object to the proposal, but requested further information be provided by the Applicant relating to operational hours and equipment number and type to be used. The Applicant responded with further information as noted herein (parag 1.8).

#### **Security**

4.33 The proximity of the workshop to the Applicant's house would provide good security which is important given that the business is in charge of customers' vehicles. The size of the premises would allow the business to largely house customers' cars which were being worked on within the building during hours of closure.

APPENDIX 1 – Photograph Locations



**APPENDIX 2 – Site Visibility from Shiplaw to Lamancha public road**

**Fig 1: Location 1 - Travelling north (site not visible)**



**Fig 2: Location 2 - Travelling north east (site not visible)**





**Fig 3: Location 3 - Travelling north-west past poultry shed (Dunrig – Applicant’s dwelling is visible)**



**Fig 4: Location 4 - Travelling north-west towards Spylaw (site not visible)**



**Fig 5: Location 5 - Travelling north (site would be visible)**



**Fig 6: Location 6 - Travelling north (site would be visible)**



**Fig 7:** Location 7 – Adjacent to site. (site visible with Dunrig in the background)



**Fig 8:** Location 7 - Travelling north towards access point (site visible)





**Fig 9: Location 8 - Travelling south (some visibility of building)**



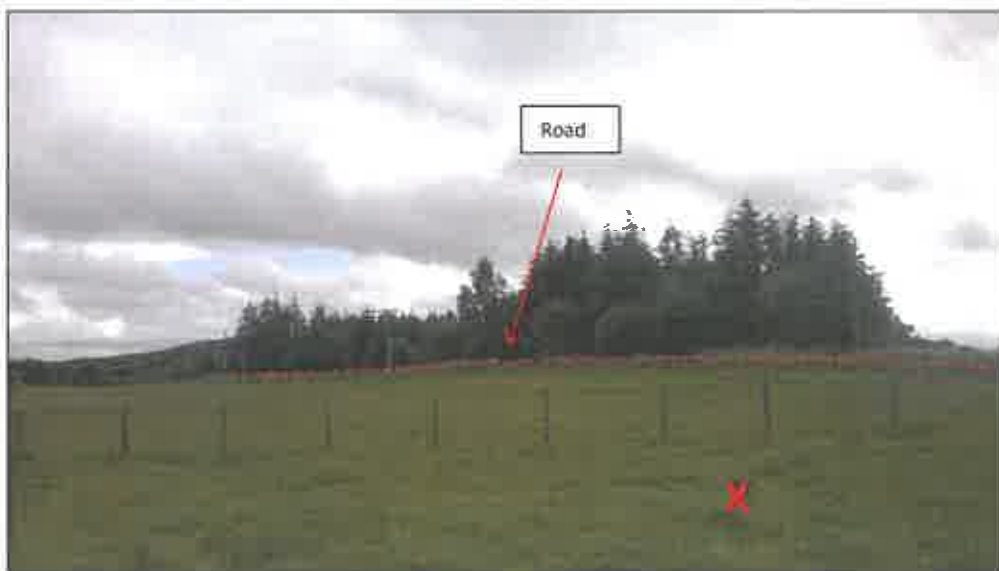
**Fig 10: On site. View north-east. A701 not visible**



**Fig 11: On site. View south east. A703 not visible**



**Fig 12: On site. View west to minor public road**



**Fig 13:** Location 9. On site. View north



