

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

8 JANUARY 2018

APPLICATION FOR PLANNING PERMISSION

ITEM: 17/01539/FUL
OFFICER: Andrew Evans
WARD: Mid Berwickshire
PROPOSAL: Formation of slurry lagoon within fenced enclosure and upgrade existing access track (retrospective)
SITE: Land South West Of Greenlaw Mill Farm, Greenlaw
APPLICANT: J B Renwick & Sons
AGENT: Agri Design

SITE DESCRIPTION

The application site is situated on agricultural land to the South of the Berwickshire village of Greenlaw. To the west of the site is located an agricultural field, with the B6384 Greenlaw and Hume road beyond. The site is generally level, though there is a slight rise towards the North and East.

The application site is located approximately 900m south west of the nearest residential dwelling on the edge of Greenlaw.

PROPOSED DEVELOPMENT

The application retrospectively seeks full planning permission for the formation of a slurry lagoon. The lagoon is contained by shaped earth embankments. Along the western side of the lagoon and its embankments is an existing row of mature trees, forming a modest shelter belt. At the western side of these trees is a stone wall, part of a field boundary. The lagoon itself is enclosed by a green coloured solid wire fence.

PLANNING HISTORY

None.

REPRESENTATION SUMMARY

Members are reminded that all comments received to the application are available to view in full on the Public Access website. At the time of writing this report, a total of 12 separate objections had been received. The main points of the objections can be summarised as follows:

- Amenity
- Smell, also in terms of previous experience of odour, and that the lagoon is sited upwind of Greenlaw on the prevailing south-westerly winds.
- There is no system in place to control the foul smell emitted from the storage of slurry
- Nuisance and loss of amenity to the residents of Greenlaw.

- Retrospective nature of the application
- Impact on property values (*not a material consideration*)
- Economic impacts on the village, including significant impact on, present and planned local business, employment, and the recovering local amenities.
- Impacts on health and welfare
- The site is on a former curling pond, on top of a water course, and at risk of flooding.

APPLICANTS' SUPPORTING INFORMATION

The agent submitted a statement in support of the application which sets out in depth their consideration of the site. A copy of this supporting statement is available for members to view in full on Public Access.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: In terms of minimising the number of vehicular trips on the public road network it would have been beneficial had this proposal been located nearer to the cattle sheds that serve it. This concern is however not sufficient to warrant an objection to this proposal and as such the RPS engineer shall not object to the application provided the existing field entrance onto the public road is upgraded.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary

Environmental Health: In terms of Air Quality, Noise and Nuisance, the Council's EHO agrees with application in principle, subject to condition requiring a plan for the management and control of potential nuisances, including noise, odour, air quality, flies, waste and other pests.

Statutory Consultees

SEPA: SEPA confirms no objection to this planning application. The proposed slurry lagoon structure has been assessed as per the requirements of The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 (as amended) (SSAFO) and the structure does not set a framework for activities which cannot be consented. In addition, SEPA have reviewed the farm waste management plan for how the slurry will be handled to minimise water pollution, and consider this to be acceptable. SEPA will guide the applicant through the formal sign off process under SSAFO regulations.

Greenlaw and Hume Community Council: Though not a formal consultee on this application, the Community Council forwarded their objections to the application, as follows:

- Whilst we appreciate the local farming businesses and fully understand the need to diversify to meet the challenges they face, as a Community Council we feel obliged to make comment and bring to your attention the concerns of residents within the village of Greenlaw as there is no information within the application which addresses or alleviates the concerns, listed below.
- **The development is not appropriately sited.** The development is disparate from the farm which is at least three miles south, therefore is not near

production. It is sited on prime quality agricultural land and within proximity to the village of Greenlaw which has a conservation area and several listed buildings and a scheduled monument.

- **Increased air pollution and offensive odour from the lagoon.** The application does not inform us of how the smell and harmful gases will be managed. During the periods of slurry spreading throughout the year the pungent odour is extremely bad in Greenlaw. The pungent smell just seems to linger over the village which has an adverse impact on the quality of life for the residents, i.e.; cannot open their house windows and doors, cannot hang out clothes to dry, cannot spend time enjoying their gardens or a walk along the street. There is a great deal of concern that there will be a continuous odour throughout the year from the development and the slurry spreading and the village will not have any respite from the offensive odours. There is a poultry farm which houses approximately 48,000 birds, located south east of the lagoon. If the wind direction is unfavourable, together with the odour from the lagoon, this could cause a cumulative amount of smell and air pollution for Greenlaw.
- **Increased traffic on B6364 and increased damage to the roadsides.** The slurry tankers currently travel frequently on the B6364 between Legars and near to the junction at A6105. This stretch of road is in a bad state at the edges of the road, with quite a distance of deep roadside ruts. It is evident the road is not designed for wide wheeled tankers, or other wide wheeled vehicles. To fill the lagoon the tankers will be making additional journeys from Legars farm as well as the frequent journeys to spread the slurry in the fields near Greenlaw.
- **Potential Pollution to Water Course.** According to older OS maps the development has been built on top of a watercourse. The development is on the site of Greenlaw's Old Curling Pond. This pond was fed from a spring called The Stoney Burn which is shown on old OS maps.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED7: Business, Tourism and Leisure Development in the Countryside

HD3: Protection of Residential Amenity

EP13: Trees, Woodlands and Hedgerows

IS5: Protection of Access Routes

IS7: Parking Provision and Standards

IS9: Waste Water Treatment and Sustainable Urban Drainage

Other considerations:

Supplementary Planning Guidance

Trees and Development (2008)

PAN39: Farm and Forestry Buildings

KEY PLANNING ISSUES:

Whether the proposals would represent a suitable rural development within the Borders Countryside and whether the proposed development would be acceptable in terms of road safety and residential amenity. Whether the matters raised in

opposition to the application are of sufficient weight to outweigh the requirement for the application to be determined in line with prevailing policy.

ASSESSMENT OF APPLICATION:

Principle

The application requires to be assessed principally in terms of policy ED7 of the Local Development Plan on Business, Tourism and Leisure Development in the Countryside.

This sets out that such proposals in the countryside will be approved where the development is for agricultural operations or for uses appropriate to the rural character of the area. Developments considered under policy ED7 should respect the amenity and character of the area, have no adverse impacts on nearby uses, including housing, and meet the other noted criteria of this policy. Impacts on residential and neighbouring amenity are discussed in detail later in this report.

The slurry lagoon will be used for the storage of slurry produced on the applicant's farm and will therefore be used directly for agricultural operations appropriate for a countryside location. This would be consistent with the principle aim of Policy ED7. In addition, a number of criteria including, but not limited to, the amenity and character of the area, impacts on nearby uses, the scale of the development and accessibility require to be met and these will be discussed in more detail below.

Placemaking and Design

Policy PMD1 of the Local Development Plan sets out relevant sustainability criteria applicable to all development proposals. In determining planning applications and preparing development briefs, the Council will have regard to the sustainability principles in policy PMD1 which underpin all the Plan's policies. In addition, Policy PMD2 sets out the Council's position in terms of quality standards for all new development and sets out specific criteria on Placemaking & Design.

In the case of the current proposals, the proposed development is a functional agricultural structure set within a rural location. As discussed above, the slurry tank will be used directly for agricultural purposes and it is absolutely appropriate that this type of structure would be located in a rural location.

The structure is located on land above the public road but the shaped embankments help the lagoon sit comfortably on the land without having an adverse impact on the character of the surrounding area. Furthermore the existing tree belt to the west of the application site provides a useful screen when viewed from the public road and these trees should be retained. This will be discussed later in the report.

The lagoon, whilst measuring 56m x 36m is of a scale appropriate for this location and can be satisfactorily accommodated within the site. The fencing is somewhat industrial in scale and finish but as the site is sufficiently distant from the public road, coloured green and set behind existing trees, this will not result in an adverse effect on the wider landscape

It is contended that, subject to the undernoted planning conditions, the proposed development would not result in any significant conflict with the requirements of policy PMD2 of the Local Development Plan. Furthermore, the Slurry Lagoon is

considered to represent an acceptable form and scale of rural development, in keeping with adopted policy and guidance in relation to placemaking and design.

Impact on Residential and Neighbouring Amenity

Policy HD3 of the Local Development Plan sets out that residential amenity will be afforded protection. The Council has adopted supplementary planning guidance on Householder Development which sets out standards for privacy and amenity.

The impact of development on neighbouring amenity is a material planning consideration. Policy HD3 sets out that development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted.

Members should be aware that Policy HD3 is primarily aimed at residential development within development boundaries but the principles remain relevant to the consideration of this application. Impacts on the residential amenity of nearby dwellings have been raised by a number of objectors, including the Community Council and these are acknowledged, however these relate specifically to air pollution and odour from the slurry lagoon and this is discussed in more detail below.

The slurry tank will be located a considerable distance from the nearest residential property located on the south side of the village and is unlikely to have a significant adverse impact on the residential amenity of this property. The land surrounding Greenlaw is considered prime quality agricultural land and is mostly in arable use although there a number of fields which are used as pasture. Slurry spraying is common in this area and the smells associated with this farming practice are not unusual at certain times of the year. It is considered that the location of this lagoon, almost 1km from the southern boundary of the village will not exacerbate existing levels to the detriment of residential amenity.

Health, Odour and Nuisance

As mentioned above the application of slurry takes place on the agricultural land surrounding the application site. This inevitably leads increased levels of 'agricultural' odours travelling over surrounding land. Members will note that third party objections received to the application highlight odour issues experienced by residents in nearby Greenlaw.

Importantly the agent for the application has made a relevant point in supporting information that odour levels, which are commonplace in rural areas such as this, are based upon existing slurring activity. Odour issues previously experienced in Greenlaw are not as a result of the retrospective nature of this application and have been as a result of previous slurring activity, predating the construction of this lagoon. At the time of the planning officer site visit it was apparent that the lagoon was nearly empty, and had only been filled at the foot of the lagoon with water. As of mid-December 2017 it was apparent that the lagoon had not previously been filled with slurry.

The intention is that investment in this lagoon by the applicant, together with alternative and updated equipment, will reduce odour impacts experienced locally. It is understood that injection, rather than traditional spreading from a tank, will significantly reduce overall odour levels. Further details are set out in the applicants supporting statement which can be viewed online.

The Council Environmental Health service advises it can support the application subject to the imposition of a planning condition as noted below. This will require submission of a nuisance control management plan, which will address management and control of potential nuisances (including noise, odour, air quality, flies, waste and other pests).

Taking the above matters into consideration it is felt that the development can comply with policy HD3 of the Local Development Plan. Subject to the noted planning condition relating to odour and nuisance

Prime Quality Agricultural Land

Policy ED10 of the Local Development Plan sets out the Council's position in terms of Development on Prime Quality Agricultural Land. In the case of this application, whilst the site was flagged as potentially being on prime quality agricultural land, closer inspection of the Council GIS system reveals that whilst the surrounding fields are designated as Prime Quality Agricultural Land, the site of the lagoon is effectively on an "island" of non-prime land.

As such, the proposals are considered to comply with the requirements of policy ED10 of the Local Development Plan.

Impact on traffic and road safety

Members will note from the consultee responses and third party representations that objections were received on the grounds road safety. Road safety, access, parking and accessibility are all material planning considerations in the deliberation of this application.

Policy IS7 on Parking Provision and Standards sets out that the development proposals should provide for parking in accordance with approved standards. Given the agricultural nature of the use consideration is not required in terms of standardised parking and cycle storage requirements. Rather, the suitability of the site to accommodate the agricultural traffic which would service the lagoon is relevant in this case.

Policy PMD2 of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access, Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

In the case of the current proposals, Members will note from the comments submitted by the Roads Planning Service that the slurry tank would perhaps be better located closer to the farm's cattle sheds but the application can be supported, subject to clarification and agreement of the revised junction details. An updated junction arrangement of the access track with the public road, to standard field access specification, is required. This can be covered by condition.

In summary, the proposed access and parking arrangements are generally acceptable. The existing access has been upgraded but the junction arrangements require further work. Subject to conditions relating to the fine detail of the junction arrangements, the application is considered to comply with the access requirements of policy PMD2 (Quality Standards) of the Local Development Plan.

Conservation Area

Members will note from the papers that an objector is concerned by the potential impact of the development on the Greenlaw Conservation Area.

Policy EP9 of the LDP seeks to preserve or enhance the character or appearance of Conservation Areas. This would include development within or adjacent to conservation area boundaries as shown on the proposals maps for relevant settlements, including Greenlaw. Inappropriate development will not be supported.

However, the application site is located a considerable distance from the village and the Conservation Area boundary and will have no bearing on the character or appearance of this designated area. The conservation status of the village will not be compromised by this development and as such the terms of Policy EP9 will be met

Flooding

Policy IS8 is intended to discourage development from taking place in areas which are or may be at risk of flooding. Members will note that objections have been raised from third parties that the site is at risk of flooding, citing its historic use as a curling pond. Given the scale and extent of embankment round the edge of the lagoon it is not considered likely that flooding could pose a significant risk to this site.

The application site is not identified as at risk of flooding in the flood risk mapping within the Council GIS system. Furthermore, the site is not identified as at risk of flooding in the SEPA national flood risk mapping. Indeed, the site is free from both river and surface water flooding shown on the publicly available flood map on the SEPA website (<http://map.sepa.org.uk/floodmap/map.htm>). The proposed development therefore meets the qualifying criteria of Policy IS8 in that the site is not at risk of flooding.

Trees, Woodland and Hedgerows

Policy EP13 of the LDP sets out that existing trees and hedgerows should be protected. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, both of which are relevant to these proposals. The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction.

In the case of these proposals, the development is retrospective. The existing trees adjoining the site seem in reasonable condition. Pre-development protection of these trees would ordinarily have been controlled by condition. However given the retrospective nature of the application, there is no need to condition tree protection during construction. However it is considered that the existing trees provide a very useful screen behind which the development sits, reducing the impact of the lagoon on the wider landscape. The trees, which fall within the control of the applicant, should be retained, and this can be controlled by condition.

CONCLUSION

Taking all matters as set out on the papers above, it is considered that the proposed development would represent an acceptable form of rural development consistent with local development plan policies and supporting planning guidance covering, but

not limited to, development in the countryside, placemaking and design and the protection of residential amenity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved, subject to the undernoted conditions.

1. Within 2 calendar months of the date of this consent a plan for the management and control of potential nuisances (including noise, odour, air quality, flies, waste and other pests) that would be liable to arise at the site as a consequence of and/or in relation to the operation, individually and/or cumulatively, should be submitted to and approved in writing by the Planning Authority. Thereafter the approved nuisance control management plan shall be implemented as part of the development.

Reason: To ensure that the operation of the buildings has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties.

2. Within 2 calendar months of the date of this consent, the existing field entrance onto the public road must be upgraded to the standard field access specification shown on the Roads Planning Service consultation response dated 7 December 2017, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of road safety.

3. The existing trees to the south west of the application site (shown on drawing No. 1717-03 hereby approved) shall be retained and shall not felled, lopped, lifted or disturbed in any way without the prior written consent of the Planning Authority.

Reason: The existing tree(s) represent an important visual feature which the Planning Authority considers should be substantially maintained.

DRAWING NUMBERS

Reference	Plan Type	Received
1717-01	Location and ownership plan as existing	09.11.2017
1717-02	Location and ownership plan as proposed	09.11.2017
1717-03	Site plan as proposed with contours	09.11.2017
1717-04	Site plan as proposed with contours	09.11.2017
1717-05	Plan as proposed	09.11.2017
1717-06	Section as propose, Fence Detail, Photos	09.11.2017
1717-07	Details and notes as proposed	09.11.2017

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

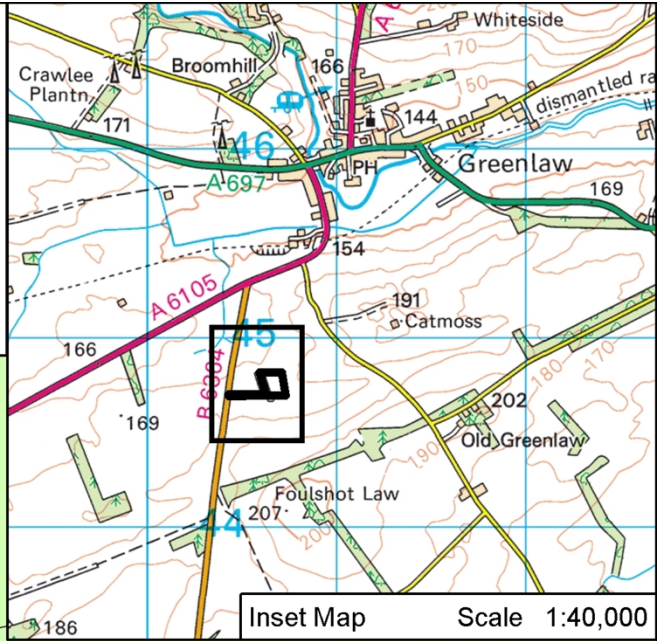
Author

Name	Designation
Andrew Evans	Planning Officer



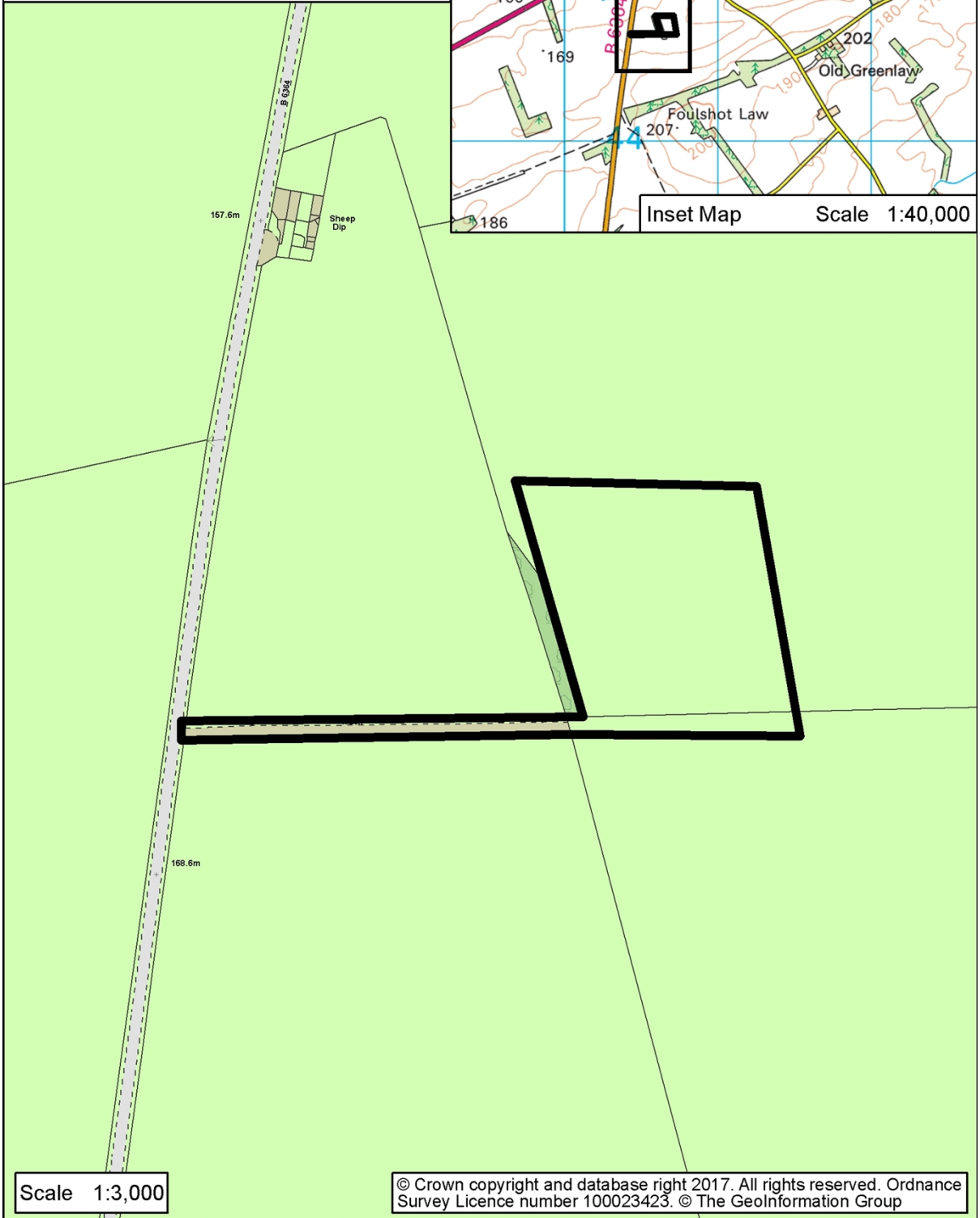
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Land South West Of
Greenlaw Mill Farm
Greenlaw



Inset Map

Scale 1:40,000



Scale 1:3,000