

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008****Application for Planning Permission****Reference : 09/01228/FUL****To : Redpath Farms per John Thorburn & Sons (Construction) Ltd Station Works Station
Road Duns Scottish Borders TD11 3EJ**

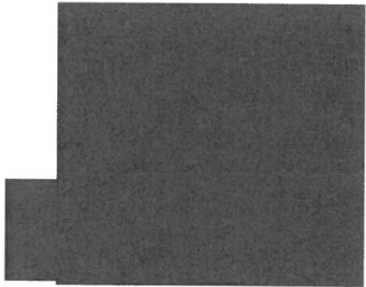
With reference to your application validated on **8th September 2009** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of agricultural building (amendment to previous consent 09/00741/FUL)**at : Mid Softlaw Farm Kelso Scottish Borders TD5 8DZ**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 26th October 2009
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
.....
Head of Planning & Building Standards

APPLICATION REFERENCE : 09/01228/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
4544/01	Location Plan	Approved
4544/02	Elevations	Approved

REASON FOR DECISION

The proposal complies with policy G1 of the Scottish Borders Local Plan Adopted 2008 and would not harm visual or residential amenities.

SCHEDULE OF CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 The colour of the steel profile cladding for the walls and roof to be submitted to and approved by the Planning Authority before the development commences. The development then to be implemented in accordance with the approved scheme.
Reason: To safeguard the visual amenities of the area.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – 0800 800 333

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire. NG18 4RG.

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 0SA.

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.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING
AND BUILDING STANDARDS**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 09/01228/FUL
APPLICANT : Redpath Farms
AGENT : John Thorburn & Sons (Construction) Ltd
DEVELOPMENT : Erection of agricultural building (amendment to previous consent
09/00741/FUL)
LOCATION: Mid Softlaw Farm Kelso Scottish Borders TD5 8DZ
TYPE : FUL Application
REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
4544/01	Location Plan	Approved
4544/02	Elevations	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

None

CONSULTATIONS

None

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Plan Adopted 2008:

G1: Quality Standards for New Development

RECOMMENDATION BY: - Julie Hayward (Principal Planning Officer) on 26th October 2009

Mid Softlaw Farm is situated to the south of Kelso accessed by a minor public road. It comprises of a large farmhouse and a number of agricultural buildings.

The proposal is to erect a grain store. This would be 30m by 67m and 12.2m in height and would be sited adjacent to an existing building. It would have concrete panels and steel profile cladding for the walls and steel profile cladding for the roof.

Planning permission was granted in July 2009 for the erection of a larger agricultural building on this site. This application seeks to amend that consent.

No representations have been received.

The building is of a design and materials that are in keeping with other buildings at the farm and it would be well sited in terms of the existing steading as there are existing buildings either side. It is considered that the proposal would not be unduly prominent in the landscape nor harm the visual amenities of the area. No trees or hedges are affected by the proposal. There are no residential properties other than the farmhouse that would be affected by the proposal as the existing houses are beyond the steading buildings to the south west.

REASON FOR APPROVAL :

The proposal complies with policy G1 of the Scottish Borders Local Plan Adopted 2008 and would not harm visual or residential amenities.

RECOMMENDATION: Approved subject to conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 The colour of the steel profile cladding for the walls and roof to be submitted to and approved by the Planning Authority before the development commences. The development then to be implemented in accordance with the approved scheme.
Reason: To safeguard the visual amenities of the area.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 17/01411/FUL****To : Mr Keith Redpath per R G Licence Architect Hillend Ednam Kelso Scottish Borders TD5 7QE**

With reference to your application validated on **13th October 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Change of use of agricultural barn to form motor vehicle workshop with associated parking area

at: Agricultural Barn Mid Softlaw Farm Kelso Scottish Borders

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

**Dated 13th December 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
.....
Depute Chief Planning Officer

APPLICATION REFERENCE : 17/01411/FUL**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
RF01	Location Plan	Refused
RF02	Existing Layout	Refused
RF03	Existing Elevations	Refused
RF04	Floor Plans	Refused
RF07	Sections	Refused
RF06	Elevations	Refused
RF05	Sections	Refused

REASON FOR REFUSAL

- 1 The use of the agricultural building as a motor vehicle workshop does not comply with policy ED7 of the Local Development Plan 2016 as the use does not require this particular rural location and is not appropriate to the rural character of the area. Such a use would be more reasonably accommodated within the Development Boundary of a settlement rather than in this particular rural location. Increased frequency and intensification of the use of this building for Class 5: Industry would be harmful to the amenity and character of the surrounding area and to residential amenities. Further, the applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 The proposal does not comply with policies PMD1 and IS7 of the Local Development Plan 2016 in that it would be more reasonably accommodated within the Development Boundary of a settlement to encourage uptake of sustainable transport methods. The proposal would lead to the over-dependence of the private car. Car parking requirements or means of sustainable transport for this proposal have not been demonstrated.
- 3 The proposal does not comply with policies PMD1 and PMD2 of the Local Development Plan 2016 in that the long term adaptability of the building has not been demonstrated. No proposals have been made for provision of toilet facilities, staff welfare rooms or office space, waste water treatment or water sources to comply with sustainability and quality standards.
- 4 The proposal does not comply with policies PMD1 and HD3 of the Local Development Plan 2016 in that the proposal has potential for nuisance and noise which could have significantly adverse impacts on neighbouring residential amenity.

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 0SA.

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.

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/01411/FUL

APPLICANT : Mr Keith Redpath

AGENT : R G Licence Architect

DEVELOPMENT : Change of use of agricultural barn to form motor vehicle workshop with
associated parking area

LOCATION: Agricultural Barn
Mid Softlaw Farm
Kelso
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
RF01	Location Plan	Refused
RF02	Existing Layout	Refused
RF03	Existing Elevations	Refused
RF04	Floor Plans	Refused
RF07	Sections	Refused
RF06	Elevations	Refused
RF05	Sections	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations have been received.

CONSULTATIONS:

Roads Planning : Objection; Sustainable transport. Proposed MOT centre is located outwith Kelso . Ideally a facility such as this would be located within a settlement with good pedestrian links and public transport available for drop off/ return of customer vehicles.

Economic Development:. Concern raised about agricultural premises being allowed to be used for general Class 4, 5, or 6 uses, unless this has already been established. If the premises were constructed for use as a farm shed, their current form may not comply with Regulations for normal business use. Reservations about a general Class 4-6 use being established unless it can be demonstrated to comply with Policy ED2. It is also expected to comply with policies PMD1 & PMD2.

Environmental Health: Potential for noise and nuisance. No assessment has been undertaken on the noise impact of the proposals. No information has been provided on hours of operation of the motor vehicle workshop. There are domestic premises in close proximity to the development site: This type of development can significantly affect the amenity of other occupiers in the vicinity.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016:

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

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

Policy HD3: Residential Amenity

Policy EP13: Trees, Woodlands and Hedgerows

Policy EP16: Air Quality

Policy IS7: Parking Provision and Standards

Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Recommendation by - Euan Calvert (Assistant Planning Officer) on 12th December 2017

Mid Softlaw Farm is situated to the south of Kelso accessed by a minor public road. It comprises of a large farmhouse and a number of agricultural buildings.

Site and location

It is a rural site adjacent to a minor road, on a rolling hilltop, 2.5km from Kelso. The minor road links the B6436 (Kelso to Morebattle) and the B6352 (Kelso to Yetholm). Midsoftlaw is a working farm steading midway between the B class roads comprising a farmhouse, three contemporary detached dwellinghouses, interspersed by a terrace of five traditional farm cottages (1.5 storey).

Policy and history

09/01228/FUL Erection of agricultural building (amendment to previous consent 09/00741/FUL). Approved 26.10.09.

Local Development Plan Policy ED7 (Business, Tourism and Leisure Development in the Countryside) requires that a development that is to be used for other business or employment generating uses should only be supported where the Council is satisfied that there is an economic and/or operational need for the particular countryside location and that the development cannot reasonably be accommodated within the Development Boundary of a settlement.

Proposal

This building was already functioning as a vehicle repair workshop on the day of my site visit, 08 November 2017. There were a significant number of vehicles surrounding this part of the building in various degrees of repair. A shipping container and a pile of tyres fronted the western gable. This is an application to formalise this business. The 3 western bays of this steel portal framed shed would be partitioned from the remaining 4-bays to form a workshop with spray booth and associated parking. The parking would be on the western and southern surrounding land, which is laid to a hardcore surface. There is no delineation of a verge with the roadside and this part of the building is under 10m from the adopted road. The only discernible proposed changes to the exterior would be provision of a pedestrian fire exit on the south elevation and a 450mm extract fan hole in the western gable wall. Otherwise the building would remain appearing with 2.4m high block walls and asbestos cement corrugated upperwalls/ corrugated roof.

Assessment

Principle

In appearance and function, this proposed partial reuse of an agricultural steel portal framed shed appears ideally suited to the requirements of a motor vehicle workshop, spray booth and associated parking. There is abundant space to manoeuvre and to park vehicles in the surrounding area and a large open span shed is ideally suited for repairs. The shed itself would be partitioned to give working area of 14m x 11.6m, with a spray booth partition 4m x 7m.

Sustainability and quality standards

The Economic Development Officer however highlights significant issues with quality standards, as the shed would not comply with Regulations for normal business use in Class 4, 5 or 6. For example, there is no proposal for provision of toilet facilities, staff welfare rooms or office space. There is no mention as to waste water treatment or water sources. On this basis alone, the proposal does not comply with sustainability and

quality standards requirements of Policy PMD1 and PMD2 in that the long term adaptability has not been demonstrated.

Economic Development further add that a vehicle workshop should be sited within a development boundary, and ideally on a land allocation specifically safeguarded for business and industrial use, Policy ED1. Policy ED2 presumes refusal on non-allocated land (within Development boundaries) unless certain criteria are fulfilled and demonstrated. In the countryside, this proposal would only be considered under the criteria of Policy ED7:

Economic/ operational requirement

Policy ED7 requires that the Council is satisfied that there is an economic and/or operational need for the proposal to be located in the particular countryside location identified, and that the business could not more reasonably be accommodated within the Development Boundary.

A workshop for general motor vehicle repairs has no inherent requirement to be sited and operated in the countryside. Such premises would ordinarily be expected to be more reasonably accommodated within the Development Boundary, where a central and easily accessible location might be expected to facilitate their operation, avoiding any unnecessary routing of customers into the countryside to access a remote rural site.

Amenity and character

Policy ED7 requires assessment in relation to additional criteria which are applicable to the assessment of the impacts of the specific proposal. This includes impacts upon the amenity and character of the surrounding area. I anticipate discernible changes to character and amenity through the increased parking of cars, increased hours of operation and increased noise arising from this proposed change of use.

While current agriculture use presents its own amenity issues, this use is largely seasonal and this use is an accepted norm (by neighbours) for this rural area. The character and appearance of these buildings is synonymous of modern agriculture however changes to the frequency and intensity of use proposed by this application would be harmful to the rural character of the surrounding area, which is not in compliance with ED7. For example, there is no projection given as to the increase in traffic movements. No proposals are given for signage, which presumably would be required to direct new clientele to this rural site.

Environment Health require further studies demonstrating potential noise impacts of the proposal and require details of proposed hours of operation of the motor vehicle workshop. There remains potential for nuisance and, as a consequence, significantly adverse impact on neighbouring residents' amenity.

Given the proximity of the nearest residential neighbour (20m), and further requirements by our Environmental Health Officer, I find that the applicant does not adequately demonstrate compliance with policies PMD1 or HD3, which seek to protect residential amenity and protect public health and safety.

Access

The Roads Planning Officer objects to the proposal on the basis that location and siting would not promote sustainable transport. Again, the case is made that a vehicle repair/ MOT facility should be within a Development Boundary. Good pedestrian links and public transport should be available for drop off and return of customer vehicles and I agree to this. This proposal would not align with the aims of Policy PMD1 and IS7, which encourage use of sustainable transport means over the dependence on the private car. Car parking requirements or means of sustainable transport for this proposal have not been demonstrated.

Precedence

My overriding concern is that approval of this proposal, which appears to be largely operational, would be in itself tantamount to an acceptance of the principle that a general industrial use, critically one without any substantiated need to operate from this particular countryside location, could be sited and operated in this countryside site.

There can be no meaningful distinction made between this Class 5 use and any alternative (or successor) Class 5 or other business operation. I would be concerned that in this context, any condition(s) imposed to restrict the industrial use and users of the premises in the long-term, would be unreasonable and unnecessary.

There has been no supporting case offered and I find no material considerations that would outweigh the need to determine the application in strict accordance with planning policy ED7. The proposal is demonstrated to recourse to character and residential amenity, policies PMD2 and HD3. The site does not lend itself to sustainable transport modes. The long term adaptability of the building has not been demonstrated, policies PMD1 and PMD2, concerning sustainability and quality standards.

REASON FOR DECISION :

The proposal does not comply with Local Development Plan 2016 policies PMD1, PMD2, ED7, HD3 or IS7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular rural location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location and the use is harmful to the amenity of the area and residential amenities.

Recommendation: Refused

- 1 The use of the agricultural building as a motor vehicle workshop does not comply with policy ED7 of the Local Development Plan 2016 as the use does not require this particular rural location and is not appropriate to the rural character of the area. Such a use would be more reasonably accommodated within the Development Boundary of a settlement rather than in this particular rural location. Increased frequency and intensification of the use of this building for Class 5: Industry would be harmful to the amenity and character of the surrounding area and to residential amenities. Further, the applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 The proposal does not comply with policies PMD1 and IS7 of the Local Development Plan 2016 in that it would be more reasonably accommodated within the Development Boundary of a settlement to encourage uptake of sustainable transport methods. The proposal would lead to the over-dependence of the private car. Car parking requirements or means of sustainable transport for this proposal have not been demonstrated.
- 3 The proposal does not comply with policies PMD1 and PMD2 of the Local Development Plan 2016 in that the long term adaptability of the building has not been demonstrated. No proposals have been made for provision of toilet facilities, staff welfare rooms or office space, waste water treatment or water sources to comply with sustainability and quality standards.
- 4 The proposal does not comply with policies PMD1 and HD3 of the Local Development Plan 2016 in that the proposal has potential for nuisance and noise which could have significantly adverse impacts on neighbouring residential amenity.

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