

STATEMENT OF CASE

Application Ref: 20/00809/FUL

**Change of use of site to business
and industrial land with associated
perimeter security fence.**

**Phase 4 Store and Yard, Acredale
Industrial Estate, Eyemouth TD14
5LQ**



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1. INTRODUCTION

Background

- 1.1. This Statement of Case is prepared by Joe Nugent MRTPI of Brownshore Management ("the Agent") against the refusal by Scottish Borders Council ("the Council") of an application for the change of use of site to business and industrial land with associated perimeter security fence ("the development") at Phase 4 Store and Yard, Acredale Industrial Estate, Eyemouth TD14 5LQ ("the Appeal site").

Personal Statement

- 1.2. This Statement of Case has been written by Joe Nugent MRTPI. Mr. Nugent has 20 years planning experience in both the public (Development Control, Policy, and Planning Enforcement) and private sectors and is the Planning Executive for Brownshore Management.
- 1.3. For reference purposes the planning application details on the Council's Public Access state:
Application Number: 20/00809/FUL
Proposed: Change of use of site to business and industrial land with associated perimeter security fence. Phase 4 Store and Yard, Acredale Industrial Estate, Eyemouth TD14 5LQ

Planning History

- 1.4. The site does not have any associated planning history.

Development Plan

- 1.5. In preparing this appeal statement, full regard has been had to the relevant policies in the Development Plan.

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED1: Protection of Business and Industrial Land

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

HD3: Protection of Residential Amenity

EP11: Protection of Greenspace

EP13: Trees, Woodlands and Hedgerows

IS5: Protection of Access Routes

IS7: Parking Provision and Standards

Other Considerations:

Designing Out Crime in the Scottish Borders Supplementary Planning Guidance 2007

Trees and Development Supplementary Planning Guidance 2008

Planning Advice Note 65: Planning and Open Space 2008

Scottish Planning Policy 2014

2. PLANNING APPLICATION

Application Documents

- 2.1. The planning application was submitted to the LPA on 27 July 2020 and accompanied by the necessary level of documents including:
- a) Application Form
 - b) Location Plan
 - c) Main Details
 - d) Certificate of Ownership
 - e) Supporting Documentation
 - PDK-20-136-001 SITE Plan- scale 1:200
 - PDK-20-136-002 Location Plan- scale 1:1250
 - Design and Access Statement
 - Images
 - 001-View looking at Existing Facilities from the North.
 - 002-View looking at Existing Secure Yard.
 - 003-Existing Security Gate to Secure Yard.
 - 004-View of Existing Security Fencing to East Boundary.
 - 005- Proposed Security Fencing to be installed.
- 2.2. Following submission to the LPA, in October 2020 Brownshore Management was instructed as Planning Agent with the aim to discuss, mediate and mitigate matters.
- 2.3. Additional supporting statements, plans, photographs, video walkthrough (x2), and landscape visual impact assessment were submitted by the Planning Agent.

3. GROUNDS OF APPEAL

Main Issues

- 3.1. The Decision Notice was issued on 14 April 2021.
- 3.2. The Decision Notice issued by the LPA states one refusal reason.
 1. *The proposed development is contrary to Local Development Plan Policy PMD2 (Quality Standards) and ED1 (Protection of Business and Industrial Land) in that the development would have a harsh and harmful visual impact and would not respect the character and amenity of The Loaning Core Path.*

Refusal Reason - Policy PMD2 (Quality Standards)

- 3.3 This policy does not aim to restrict good quality modern or innovative design but aims to ensure that it does not negatively impact on existing buildings, surrounding landscape or visual amenity.
- 3.4 In terms of the Case Officers Report, Part m) of Policy PMD2 is referenced as the primary section of the policy guidance.
- 3.5 Policy PMD2 states that all new development will be expected to be of high quality in accordance with sustainability principles, and to integrate with its landscape surroundings. Criteria m) states to provide appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings.
- 3.6 The Appeal site is part of the Acredale Industrial Estate and is allocated in the Development Plan for business and industrial land. Therefore, the character of the Appeal site, the adjacent buildings and land uses are commercial, industrial and business.
- 3.7 The security perimeter fencing erected at Acredale Industrial Estate includes the metal palisade fencing proposed within this Appeal, this type of fencing is established in the character of the land in proximity to the Appeal site.
- 3.8 A key consideration is that the nature of the security fencing at the Acredale Industrial Estate is proportionate for the degree of security required for commercial business premises.
- 3.9 When assessing criteria m) this requires development to provide appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings. The appropriate type of boundary treatment for an industrial estate is proven to be security fencing, a standard product is metal palisade fencing. In terms attractive edges, industrial estates are function to their operational land use and the security fencing will integrate with the existing fencing at the site and wider industrial estate.

Policy PMD2 n)

- 3.10 In terms of the Case Officer Report it appears to omit criteria n) that provides guidance for incorporating adequate safety and security measures at a development.
- 3.11 Criteria n) is a material consideration in this Appeal as the metal palisade has been proposed in order establish security measures for an existing business at the industrial estate. The character and design of the security fence is predicated on the nature of the land use, business and industrial.
- 3.12 When assessing Policy PMD2 m) and n), the land use and character of the area is business and industrial in its character. This character is the prominent land use in the area and the footpath routed along the West boundary of the industrial estate does not reduce or alter the business and industrial character of the area.

Refusal Reason – Policy ED1 (Protection of Business and Industrial Land)

- 3.13 In terms of Policy ED1 the Appeal site is located within the established Acredale Industrial Estate. The industrial estate is allocated within the Development Plan as a District Site and there remains a preference in policy terms to retain these within employment uses, therefore the Appeal site is an established and safeguarded employment site.
- 3.14 Policy ED1 is caveated in that development at these locations must:
- a) Respect the character and amenity of the surrounding area, and be landscaped accordingly, and
 - b) Be compatible with neighbouring business and industrial uses.

Planning Policy

- 3.15 The Appeal site and surrounding area is washed over and wholly allocated within the adopted Development Plan for business and industrial land uses.
- 3.16 These policy allocations wash over all the land in this area and do not separate business and industrial land from highways and associated land. The areas are wholly allocated and there is no spatial ambiguity.
- 3.17 It is well-established and adopted within the Local Development Plan that the Acredale Industrial Estate is allocated as a District Site. In this instance the Appeal site and the existing adjacent business accommodation are allocated as business and industrial land.
- 3.18 During the application process discussions took place between the Agent and the Planning Policy Team at the Council. They confirmed with the land wholly allocated as business and industrial it is an *open door** in planning terms for the change of use of the land to its allocated use.
- *Term used by the Planning Policy Officer
- 3.19 The development proposals support the economic sustainability of an existing use at the industrial estate (Eyestore Ltd) and support their new land use proposal for business and industrial land. The Planning Policy Team has confirmed that the proposal accords with the allocated land use, and this is consistent with Policy ED1.

Case Officers Report

- 3.20 The Case Officers Report confirms (Pages 3 and 4) that the Appeal site forms part of a wider, blanket allocation of land for Business and Industrial Safeguarding (District category) within the Local Development Plan 2016. The allocation follows the development boundary to the south-west of the town and covers the entirety of the proposed site, and also includes the Loaning. There is a presumption in favour of business and industrial use development on allocated land under Policy ED1 (Protection of Business and Industrial Land). This includes the proposed Class 4 storage use. There is no question that the large majority of the proposed site could be used for Class 4 storage use, with secure perimeter fencing, without conflicting with planning policies. There is strong policy support for this. The need for secure perimeter fencing is also not in question and was accepted at the outset of this application. However Policy ED1 also requires any such proposals respect the character and amenity of the surrounding area, and to be landscaped accordingly. For the reasons outlined further below, the proposed development is not considered to meet these tests.
- 3.21 The key statement by the Case Officer is;
There is no question that the large majority of the proposed site could be used for Class 4 storage use, with secure perimeter fencing, without conflicting with planning policies. There is strong policy support for this. The need for secure perimeter fencing is also not in question and was accepted at the outset of this application.
- 3.22 The key issue arising from the Case Officers Report is that Policy ED1 also requires any such proposals respect the character and amenity of the surrounding area, and to be landscaped accordingly. The Case Officers Report sets out their assessment of the proposals.
- 3.23 In the first instance, the Case Officer seeks to separate the caveat of Policy ED1, this states that development at these locations must:
- a) Respect the character and amenity of the surrounding area, and be landscaped accordingly **and***
 - b) Be compatible with neighbouring business and industrial uses.
- *Emphasis added.
- 3.24 In planning terms the requirements of Policy ED1 cannot be separated as the policy states and, therefore both a) and b) need to be satisfied. In this instance the proposed land use accords with a) and b) as stated by the Case Officer in their report.
- 3.25 The proposed permitter security fence mirrors the security fences established at the Acredale industrial estate, including those erected and lawfully established around the existing perimeter of the Appeal site. The proposed perimeter security fence would be a continuation of the existing metal palisade fencing established at the industrial estate and the Appeal site. Therefore, it is considered reasonable that the proposed development is compatible with neighbouring business and industrial uses and accords with Policy ED1 b).
- 3.26 Therefore the Policy ED1 a) requires assessment. The letter from the Agent to the Case Officer (4 December 2020) included with this appeal submission provides a landscape character assessment, including the full route of the footpath and the varied visual character of the route.

- 3.27 To offer an assessment of Policy ED1 a) it is necessary to establish the “*character and amenity of the surrounding area*”. A site visit, as illustrated in the two videos provided to the Case Officer, illustrate that the industrial estate is a prominent (potentially dominant) feature in the visual character of the 200m from the North access to the footpath. The footpath has shrubs and trees to the West, and these form a broadly linear tree belt view along the footpath and limit views to the West. Buildings at the industrial estate are often within a few metres of the footpath and therefore are prominent to users of the route. Vehicles and roads associated with the industrial estate are also in proximity to the footpath and form prominent views from the footpath.
- 3.28 It is noted that the character and amenity of the footpath changes and is variable throughout its route (North to South). The North has an urbanised and industrial character, the midsection has a narrow-vegetated character with trees along the West and gappy hedgerows to the East, the South is more focused with the residential developments along the East with non-native hedgerows, close board fence and residential gates accessing onto the footpath.
- 3.29 In terms of character and amenity of the surrounding area of the path associated with the Appeal site the area is prominently an urban character and this is due to the established industrial and commercial land uses and operations. The linear tree belt and grassed footpath do not reduce the visual prominence of the urbanised land uses visually apparent when walking the section of the footpath associated with the Appeal site.
- 3.30 It is therefore established in this Statement of Case, using the site visits and landscape assessments that the character of the area associated with the Appeal site is of a predominantly urban and industrial / commercial nature. Therefore, the development of a security fence matching the existing at the site would respect the character and amenity of the surrounding area. The development can also be landscaped accordingly via a planning condition requiring planting and subsequent aftercare.

Development Plan – Proposals Map

- 3.31 Furthermore, when considering the planning policies at the site it is a material consideration that the site and adjacent land (including the footpath) are all allocated for business and industrial land. This allocation is in place along the entire boundary of the industrial estate.

Additional Site – Acredale Industrial Estate

- 3.32 It is noted in the Case Officers Report that another location was visited and documented as part of the information provided by the Agent. The land is located within Acredale Industrial Estate and adjacent the A1107 which is an arterial route for traffic and pedestrians within Eyemouth, therefore establishing a significant number of receptors.
- 3.33 The Case Officer approved the security palisade fencing at this location with screening planting along the outer section of the fence line to reduce the visual effects of the security fence.

- 3.34 This example was provided as it is located at the same industrial estate, is the same security fencing and has been approved by the Local Planning Authority with a higher number of visual receptors.

Land Acquisition / Location of Fence / Mitigation / Landscaping

- 3.35 During the application process the location of the fence line was discussed between the Agent and the Case Officer.
- 3.36 The position of the applicant, and for this appeal, is that early and proactive discussions took place with the Council in terms of securing the acquisition of the land for its allocated use (business and industrial land).
- 3.37 The land identified and discussed for acquisition with the Council is wholly allocated for business and industrial use. The planning policy allocation for business and industrial land use wholly washes over the industrial estate, footpath, and beyond.
- 3.38 The use agreed with the Council at the point of the land sale is for this defined use (business and industrial) and the proposed area is within the allocated area within the Local Plan.
- 3.39 In terms of location, the fence is proposed as originally submitted to the LPA (PDK-20-136-001 SITE Plan – Date: 22-07-2020) at the application stage. The fence would be erected along its current alignment and establish the fence in a route able to function as a boundary and security fence.
- 3.40 In terms of visual screening planting (if required) this can be conditioned (as can aftercare) and this can mirror a similar planting scheme to the approved scheme adjacent to the A1107 as the LPA has previously supported this type of fence and screening development.
- 3.41 Previous discussions included the Case Officer requesting a metal palisade fence, a parallel close board wooden fence, and parallel vegetation planting for screening. This three-tier proposal was considered excessive, and the Agent requested a pragmatic approach using proposals supported and approved by the LPA at other locations at the Acredale Industrial Estate.
- 3.42 The Case Officer also requested a setback distance of six metres from the position of the fence. This would reposition the fence to further than the existing and former position. This would result in the site being commercially unworkable from an operational perspective and was considered unreasonable.
- 3.43 Landscaping is a key matter as the vegetation along the West of the footpath has significantly encroached onto the footpath and potentially reducing the route. If vegetation and land landscape management were undertaken along the route at this location the route would be broadened and further facilitate the development.

4. CONCLUSION

- 4.1 To provide a conclusion and having considered the appropriate national and local planning policies and guidance the proposed development accords with each of the policies assessed and with planning guidance.
- 4.2 On balance, there are several material considerations set out within the Planning Statement and this Statement of Case that demonstrate material consideration weighing in support of the development.
- 4.3 Following detailed discussions with the Council the land was sold to be used for secure commercial storage purposes.
- 4.4 The fence position proposed by the Case Officer of a six-metre set back, would make the project non-viable as the internal area (sqm) would be logistically unviable.
- 4.5 The development and the fence are proposed to provide secure commercial storage usage associated with an existing commercial business use.
- 4.6 Insurance Companies would not insure the site for secure land use, also there would be no Public Health Insurance. This is because insurance companies require secure permitter boundaries.
- 4.7 In conclusion, the principle of the development was agreed during the acquisition discussions with the Council. The site forms part of the Acredale Industrial Estate and the planning policies allocate the site and adjacent land for business and industrial uses.
- 4.8 The design and materials of the fence has been provided to match and assimilate with the fences in proximity to the site.
- 4.9 In terms of a conclusion, the site has been positively supported during acquisition discussions with the Council, the land area (and adjacent land) is supported by policies of the Local Plan for business and industrial use), the design and materials accord with the established security fences at the industrial estate. The design and materials of the fence match with the existing fences in the industrial estate.
- 4.10 It is therefore kindly requested that the application / appeal be approved.

5. APPENDIX 1 - PHOTOGRAPHS



Image 1 – View South including security fence



Image 2 – View of existing industrial building, expansion land and security fence



Image 3 – Existing footpath, security fence, and vegetation



Image 4 – Existing footpath and proximity of existing industrial buildings



Image 5 – Panorama of industrial buildings, footpath and security fence (landscape character)