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Brownshore Management
M54 Space Centre
Halesfield 8, Telford
TF7 4QN
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Dear Mr Duncan,

RE: 20/00809/FUL

**SITE: PHASE 4 STORE AND YARD ACREDALE INDUSTRIAL ESTATE EYEMOUTH
SCOTTISH, BORDERS TD14 5LQ**

**PROPOSAL: CHANGE OF USE OF SITE TO BUSINESS AND INDUSTRIAL LAND WITH
ASSOCIATED PERIMETER SECURITY FENCE**

1.0 INTRODUCTION

- 1.1 This letter is submitted in response to the ongoing discussions with the Case Officer relating to the development proposals at Phase 4 Store and yard, Acredale Industrial Estate, Eyemouth, Scottish Borders TD14 5LQ.
- 1.2 These matters have been discussed with the Case Officer between the LPA and the applicant/developer.

2.0 DEVELOPMENT PROPOSAL

- 2.1 The development proposal has been discussed with the Case Officer and was requested to be updated to include the erection of a security fence and the change of use of land to commercial purposes.
- 2.2 This was requested with the Planning Office and the development proposal was updated to state:

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



3.0 LOCAL DEVELOPMENT PLAN

3.1 In order to review the development proposals a review of the relevant planning policies of the Development Plan are required.

3.2 The Development Plan is the Scottish Borders Council Local Development Plan (2016). An update to the Local Development Plan (LDP2) is detailed on the Council's website, however this is not stated to have progressed to formal review or adoption and limited weight is afforded to LDP2.

Policy ED1 - Protection of business and industrial land

3.3 Acredale Industrial Estate is allocated in Policy ED1 as a District Employment Site.

3.4 Policy ED1 sets a presumption in favour of the retention of industrial and business use on strategic and district sites, including new land use proposals for business and industrial land.

Policy zEL47 - Acredale Industrial Estate

3.5 The application site and surrounding land is wholly allocated in Policy zEL47 (Acredale Industrial Estate) of the Local Development Plan. Policy zEL47 (Acredale Industrial Estate) is allocated as business and industrial land safeguarding.

Policy ED1 and Policy zEL47 Summary

3.6 The application site and surrounding area is washed over and wholly allocated within the adopted Development Plan for business and industrial land uses.

3.7 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.

3.8 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 application site and the existing adjacent business accommodation are allocated as business and industrial land.

3.9 Recent discussions have been undertaken with the Planning Policy Team at the council who confirm that 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.



3.10 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 and Policy zEL47.

Policy PMD2 - Quality Standards

- 3.11 The aims of Policy PMD2 are to ensure that all new development is of a high quality and respects the environment in which it is contained. The policy does not seek to restrict good quality modern or innovative design, however it aims to ensure it does not negatively impact on the existing buildings, or surrounding landscape and visual amenity of the area.
- 3.12 The proposals support the principles of sustainability as the land is allocated for, and will be used for, business and industrial purposes. The proposals accord with Policy PMD2 f) in terms of providing hard and soft landscaping works to accommodate the storage uses, also the perimeter security fence is able to be treated to assimilate with the local environment and mitigate matters relating to visual amenity.
- 3.13 The proposals accord with Policy PMD2 h) to n) in retain the established character of the area; business and industrial land. The area is allocated for business and industrial land, the application site is not allocated for environmental or habitat purposes, the application site forms an intrinsic element with the existing industrial units and the industrial estate as a whole.
- 3.14 The scale and mass of the development (storage and distribution, and the security fence) are proportionate to the existing built infrastructure at the site (Eyestore Ltd) including security fencing and the storage of shipping containers and associated materials. In policy terms the development accords with, and is consistent with, Policy PMD2 k) as it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form.

Policy PMD3 - Land Use Allocations

- 3.15 This policy confirms that development will be approved in principles for the land uses allocated within the Local Development Plan and the Proposals Map. The application site is allocated for business and industrial use, the development proposals fully accord with the allocated use of the Local Development Plan and the Proposals Map.
- 3.16 The development proposals are intrinsic to each other (storage and distribution and perimeter security fence) and rely upon each other for the purposes of the land use. The use maintains the established use at the industrial estate and the principle of development is established by Policy PMD3.

4.0 VISUAL AMENITY

- 4.1 It has been noted that the Case Officer has raised potential concerns relating to the effects upon visual amenity from the development. This section of the letter offers a response to these concerns and potential measures of mitigation.
- 4.2 A material consideration is that the land is allocated for business and industrial use and virtue of this allocation in the Development Plan it is accepted that the character of the land use and therefore boundary treatments will be of an industrial character. In terms of visual amenity an additional site visit was undertaken to fully assess the character of the footpath.
- 4.3 Image 1 shows the 2.2m (approx) beech hedge (east) along the perimeter of the footpath. This forms a physical and visual barrier to the east.



Image 1 - Observing south along the footpath

- 4.4 After the Beech hedge the footpath briefly visually opens to the east with the existing business and industrial buildings directly observed in proximity to the footpath. At this point the hammerhead turning area, commercial vehicles and industrial buildings are also observed in proximity to the footpath.
- 4.5 When passing the hammerhead turning area the recently erected fence is apparent and observed in a linear position aligned with the footpath.



Image 2 - Observing south along the footpath with fence in view

- 4.6 The character of the footpath and the local landscape in this area maintains the existing business and industrial features to the east, including the buildings, roads, vehicles and associated infrastructure. The fence in this context assimilates with the existing character of the eastern side of the footpath that is well-established as business and industrial.
- 4.7 A material consideration in the assessment of the fence is that the discussions with the LPA have not related to the principle of the erection of the fence. The discussions have related to the proximity of the fence to the footpath. Therefore in this instance it is considered that the principle of the fence is not of consideration, it is the proximity to the footpath.

- 4.8 Image 3 provides a view into the application site including the area set out within the application for a change of use. The change of use is related to scrub land that provides a limited function, the land is allocated within the Development Plan for business and industrial use and this is assessed earlier within this document.



Image 3 - Observing south within the application site

- 4.9 When following the footpath the recently erected fence shown in Images 2 and 3 extends to a linear length of approximately 30m. This ends at the adjacent land and Image 4 illustrates the footpath continuing into an area of hedgerow (east) and woodland (west).
- 4.10 This area of the footpath includes a gappy hedgerow (east) and open woodland with scrubland within the lower elements of the woodland (west). The character of the footpath along this section becomes enclosed with the encroachment of the vegetation and its height, an additional character of this area (during the site visit) is litter and overgrown bracken.



Image 4 - Observing south along the footpath

- 4.11 Progressing along the footpath the presence of residential fences has occurred and these are largely closeboard fences within 1m of the footpath.



Image 5 - Observing residential fencing along the footpath

- 4.12 These closeboard residential fences are all over 1m in height, are adjacent and parallel to the footpath, and form a physical and visual barrier to users of the footpath. These fences create a solid barrier and generate an effect of narrowing the footpath along the rear of the residential properties (See Image 5).



Image 6 - Residential fencing forming a linear barrier along the footpath

- 4.13 These fences would also require planning permission in the first instance based upon the advice provided by the LPA in that the Core Path is considered a road and therefore such fences could not be erected within 20m of the Core Path (without prior consent from the LPA).
- 4.14 In addition to the physical and visual barrier formed by the fences there is vegetation growth from the residential properties encroaching into the footpath. Furthermore, at a number of locations there is garden waste (grass cuttings) deposited onto the footpath (See Image 7). In addition to the fences, encroaching vegetation, and garden waste, there are several residential gates forming access onto the Core Path and accessing the footpath.
- 4.15 The cumulative effects of the residential properties along the footpath includes physical barriers (visual and physical), garden waste, informal accesses onto the footpath, and various designs of barriers. Cumulatively this results in a significantly adverse impact on the footpath along this section of the route.



Image 7 - Residential vegetation overhanging into the footpath. Garden waste (grass cuttings) deposited on the footpath.



Image 8 - Residential access established onto the footpath.



Image 9 - Residential fencing located adjacent to the footpath.



Image 10 - Residential fencing adjacent to the footpath, including a gate to afford access and egress from the residential property onto the footpath.



Image 11 - Residential hedging adjacent to the footpath. The hedge is planted into the Core Path and potentially outside of the residential curtilage as the fence can be observed behind the hedge.



Image 12 - Residential hedging adjacent to the footpath, including a gate to afford access and egress from the residential property onto the footpath.

- 4.16 In terms of fences, a recent example is 20/00437/FUL (Land South West Of Water Treatment Works, Gunsreen Hill Industrial Estate, Eyemouth). The report for this application refers to landscaping and reducing the visual effects with bunding and fencing. The fence erected is 2m from the footpath and 2.35m in height, pillarbox red and without screening. The fence is considered to be a prominent feature, visually apparent in the local landscape, and does not assimilate with the surrounding area.



Image 13 - Commercial fencing at Gunsreenhill Industrial Estate, Eyemouth



Image 14 - Commercial fencing at Gunsreenhill Industrial Estate, Eyemouth



- 4.17 Recognising the proposed mitigation for the application site, including vegetation screening, it is considered that effective screening of the fence will be achieved. It is also considered reasonable and proportionate when weighed in the planning balance with the fence permitted under 20/00437/FUL.

Summary

- 4.18 To offer a summary to this assessment, the footpath runs north to south and includes landscape characters related to business and industrial land, scrubland with gappy hedgerows and woodland, residential properties with fences / hedges forming physical and visual barriers to the footpath.
- 4.19 The cumulative effects of the residential properties along the footpath includes physical barriers (visual and physical), garden waste, informal accesses onto the footpath, and various designs of barriers. Cumulatively this results in a significantly adverse impact on the footpath along this section of the route. Recognising the three identifiable character zones of the footpath it is possible to establish the mitigation (where necessary) for the current planning application.
1. Business and industrial land;
 2. Scrubland with gappy hedgerows and woodland;
 3. Residential properties with fences / hedges forming physical and visual barriers to the footpath.

Mitigation

- 4.20 Recognising that the fence is located within Character Zone 1 the design, materials and function of the fence are relevant to the existing land uses within this zone (i.e. business and industrial. The fence in this instance assimilates with the character of the local area and the function and purpose of the land as allocated in the adopted Development Plan.
- 4.21 In terms of mitigation, this is not considered to be a definitive criteria as the mitigation is defined by the reasoning of the advice from the LPA. The mitigation is also related to the adjacent land uses, the allocated use of the site within the Development Plan and also the receptors apparent in the location.



Receptors

- 4.22 In terms of receptors the proximity of the fence and the use of the land is relevant to the use of the Core Path. The use of the route was monitored across a 3 day period and is variable on selected days and variable with the weather conditions. Users in a working day (9-5) of the Core Path at this location have been observed as ranging from 2 to 18, this gives an average of 10 users per day.
- 4.23 These users experience the fence as an established part of the industrial estate both in its land use and landscape character. The development of the site does not introduce a new land use, it assimilates with the established land use.

Mitigation

- 4.24 The key advice from the Case Officer at the LPA related to the fence includes:
- “...I would be prepared to consider amended proposals that seek to address these points. This will require the fenceline to be set back from the footpath and the prominent boundary to the south-west. The setback will need to reduce the visual impact of the fence and allow adequate space for robust landscaping for screening purposes, which will be essential to mitigate the harsh visual impact of the fence. I would expect a setback of around 6m from the footpath to be sufficient for these purposes, less from the boundary to the SW. Bringing the height of the fence down will not address the issue sufficiently in isolation, but could be considered as an additional measure, though with adequate setback and landscaping this will not be necessary – I am mindful of the security requirements for the fence. Proposals and delivery of landscaping would also be required, the detail of this could be agreed later by condition.”*
- 4.25 The key considerations are therefore related to the visual effects of the fence and the request to install screening. The proximity of the fence to the footpath is not indicated as a matter for address, it is the visual effects of the fence. Therefore the setback from the footpath is relevant to the type and effectiveness of screening.
- 4.26 When assessing the landscape character of the footpath and the planting / vegetation present along the route the most effective vegetation was noted as Laurel Hedging (*Prunus laurocerasus 'Rotundifolia'*). This form of planting provides a dense and effective screening and is an evergreen plant. This form of hedging is a well-established form of screening and is a robust and hardy form of vegetation.



- 4.27 In terms of setting back the fence it is established that this distance relates to the proposed screening. Laurel Hedging requires approximately 60cm from a fence or wall to properly grow (industry guidelines). It is therefore recommended that the fence be brought back by 1m and this allows alignment with the adjacent fence of the land to the south. This will provide a more uniformed fence line that carries onto the hedgerows to the south.
- 4.28 The set back distance allows for the planting and growth of the Laurel Hedging and this will provide a full and effective screening of the fence from the footpath. This will also allow for the alignment of boundary fences / hedges along the footpath to remain uniform.
- 4.29 A planning condition can be attached requiring planting details for the Laurel Hedge and any requirement for subsequent management.



5.0 CORE PATH - DESIGNATION / LEGISLATION

5.1 The LPA has confirmed that the Core Path is a 'road' and it is requested for clarification under the relevant legislation

5.2 For the purposes of the GPD(S)O "road" has the meaning assigned to it by Section 151 of the Roads (Scotland) Act 1984, and this states:

"road" means, subject to subsection (3) below, any way (other than a waterway) over which there is a public right of passage (by whatever means [F17 and whether subject to a toll or not]) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes; and any reference to a road includes a part thereof.

Subsection 3 states:

This Act does not confer any power or impose any duty as regards a road or proposed road which—

(a) being a footpath only, is a public path created under section 30 of the Countryside (Scotland) Act 1967 (power of planning authority to create public paths by agreement);

(b) being a footpath only, forms part of a long-distance route the proposals for which have been approved by the Secretary of State under section 40(1) of that Act (approval of proposals relating to a long-distance route); or

(c) forms part of land owned or managed by [F34a local authority] and used by them for the provision of facilities for recreational, sporting, cultural or social activities in the discharge of their duties under section 14 of the Local Government and Planning (Scotland) Act 1982.

5.3 Given this, not all Core Paths will also be roads, it will depend on the circumstances of the case. Some Core Paths are able to be used by vehicles, so will be roads, and others will be footpaths, so will not be roads.

5.4 The Case Officer and the LPA are kindly requested to provide confirmation as to the status and designation of the Core Path adjacent to the application site. This request is set out as the Core Path in this instance has the potential to be within Section 151 of the Roads (Scotland) Act 1984: Subsection 3: a) or c).



6.0 SCOTTISH BORDERS COUNCIL

- 6.1 As has previously been discussed with the LPA the application site was acquired from Scottish Border Council. The proposed land use was discussed with the Council and this is included by the Council in their Heads of Terms for the land sale.
- 6.2 Section 8 of the Heads of Terms presented by the Council confirms that *“The land is to be used as a yard for the expansion of the existing storage business and use only for uses falling within Classes 4, 5 and 6 specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997.*
- 6.3 The Council, in providing the land for sale in the first instance, established the purpose of the land (for the expansion of the existing storage business) and the Use Classes (4, 5 and 6). In this instance the Council established the principle and corporate acceptability of the use of the land for the purposes within this application.

7.0 CONCLUSION

- 7.1 To offer a conclusion, the application site is allocated within the adopted Local Development Plan for business and industrial land uses. This application seeks to allow for the expansion of an existing use at the industrial estate.
- 7.2 The expansion of an existing business and industrial use at this location is directly supported by policies of the Local Development Plan. Additionally, this form of development supported the economic sustainability of the existing business and their supply chain in terms of their increased requirement for business and industrial land.
- 7.3 In terms of the potential for effects on visual amenity it is established that the Core Path travels through an allocated industrial estate and therefore the landscape character reflects the business and industrial uses at this location.
- 7.4 The assessment of the landscape character associated with the Core Path has allowed identification of established hedges along the route. The use of a Laurel Hedge would provide an effective screening whilst ensuring a hardy and evergreen shrub.
- 7.5 The mitigation would achieve the necessary screening whilst ensuring the commercial viability of the land within this application. The planning balance between mitigation and economic viability have been carefully considered and each of the matters have been met in this instance.
- 7.6 It is therefore requested that the LPA support the application and a positive accommodation is supported.