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Planning and Regulatory Services
Council HQ
Newtown St Boswells
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Hearing Statement in relation to Notice of Review 21/00016/RREF against refusal of Planning Application 21/00244/FUL for the erection of a new agricultural machinery dealership premises at Slaters' Yard Charlesfield St Boswells TD6 0HH

Hearing ground requiring appellant statement on-

- Availability of Industrial land within Charlesfield Industrial Estate, St. Boswells and surrounding area

Appellant – AB Wight Engineering Ltd

Agent – Murray Land & Buildings

We will refer to the Notice of Review documents and the Planning Application documents as well as any others relevant at the Hearing.

Within the Planning Application & Notice of Review documents we have referred to the lack of Industrial Land within the Charlesfield Industrial Estate area. This information has been included again in the Hearing Statement.

Attendants at Hearing on behalf of Appellant –

Andrew Wight AB Wight Appellant

Garry Wight AB Wight Appellant

Jamie Murray Murray Land & Buildings Agent

-  Development Boundary
-  Conservation Area
-  Key Greenspace
-  Business and Industrial
-  Business and Industrial Safeguarding
-  Structure Planting /Landscaping

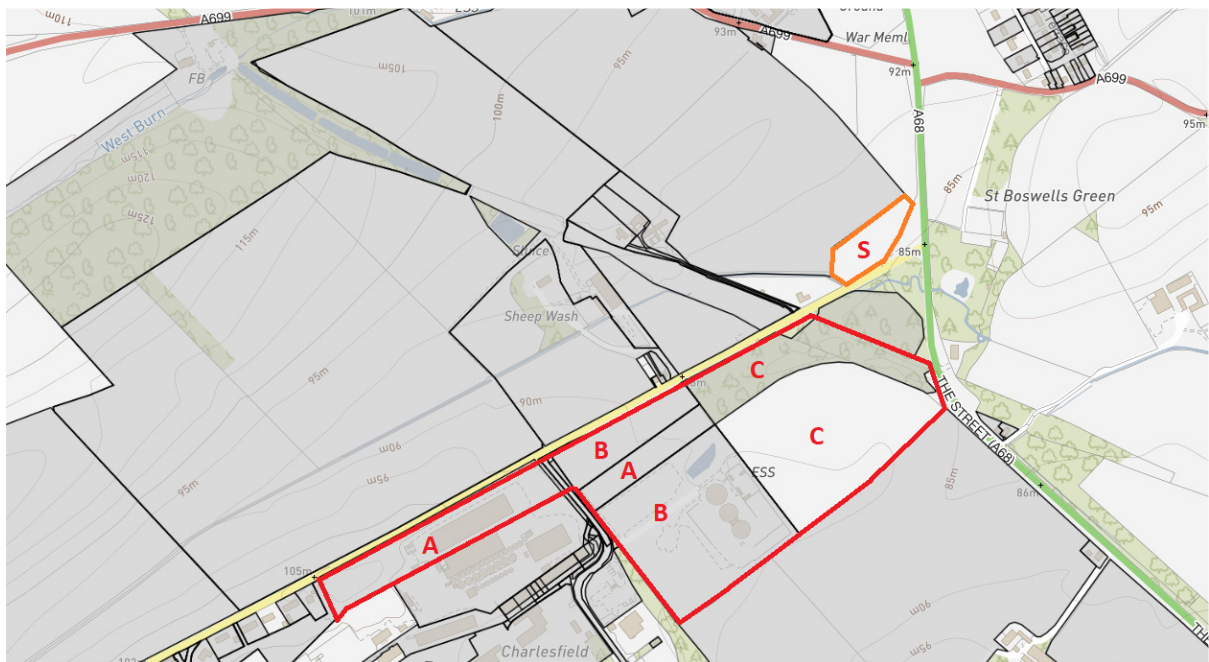


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Location/Proposed site outlined in red in relation to St Boswells & Charlesfield Local Development Boundary

Land Availability

The land zoned within the Charlesfield zEL19 is not available.



Source – Registers of Scotland – OS 100059842

Land outlined in red above is all part of the Charlefield Industrial Estate Extension zEL19. There are three owners of the zoned land, those noted A-C, divided up as per the Registers of Scotland. Slater's Yard site is outlined in orange with an S.

Zone A

The land owned by zone A is currently for sale because the former owners -Alexander Inglis & Son- have entered administration. This land houses a grain plant and this use will continue. The east land parcel is effectively a ransom strip and it will be sold as part of the whole grain plant.

Neither land parcels in zone A have been marketed or available prior to the former owners entering administration and there is nothing to suggest this will change.

Zone B

The land in Zone B is owned by the Iona Environmental Infrastructure Holdco Ltd, the company who owns and run the St Boswells Biogas Plant. Part of the larger southern parcel is under a planning application for a distillery. Again, this land is only ever likely to be developed by the owners of the land for their own use, it is not available to third parties and none of it has been marketed for sale or let in the local plan period.

Zone C

The land in Zone C is owned by a local farmer - James Mccorquodale. The site itself is not readily developable without significant infrastructure installation, based on a larger development. It is therefore not available in the short to medium term.

Whilst an Employment Land Audit was carried out by SBC in 2019, this is not a suitable rebuttal to the lack of this land's availability. A survey or box ticking exercise cannot get away from the fact that this land has not been marketed for sale or let in this period to date. Furthermore, discussions by my client with the three landowners, advised that none of these sites were available to them in the short to medium term.

Whilst the zoning of land has a place and it is a requirement of the Town & Country Planning (Scotland) Act, to include a Local Development Plan with policies, it does not offer any guarantees that the land zoned will become what it has been zoned for, or that it will be available to third parties, nor does the timeline have any real bearing. The council has sought to purchase land elsewhere in the recent past to control the outcome of their local plan. This does not always work though, as location, availability and the market dictates.

Furthermore, there is vacant, serviced business land throughout the Scottish Borders, particularly in the southern and eastern parts of the region, as evidenced by the Council's own website advertisements. This has been the case for some time. Whilst it is ideological to afford business and employment land opportunities in all of these towns, it also shows that location is key to business, and that the market dictates.

There is a distinct lack of land availability in and around Charlesfield Industrial Estate and my client has taken the opportunity to purchase a site with an existing use. That the site does not meet with all of the Council's Local Development Plan policies would appear to be trumped by Slaters Yard's established and existing use and the Local Plan's failure to provide alternative sites for development. The Charlesfield Extension land may end up being used for Employment, but only being available to the existing owners or large developers. Therefore, it has ultimately failed to provide business land opportunities to local businesses in a timeous manner.

Local Plan Failure

Local Plan Policy recognises market failure situations under Local Plan Policy ED1- Protection of Business and Industrial Land - 1.1 states-

'The Policy recognises the financial difficulty in bringing forward new business and industrial land in a rural area such as the Borders where, in the provision of business premises, there is a market failure situation.'

PolicyPMD3 below outlines the Land Use allocation constraints.

POLICY PMD3: LAND USE ALLOCATIONS

Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps.

Development will be in accordance with any Council approved planning or development brief provided it meets the requirements for the site and its acceptability has been confirmed in writing by the Council.

Sites proposed for redevelopment or mixed use may be developed for a variety of uses subject to other local plan policies. Where there is evidence of demand for specific uses or a specific mix of uses, these may be identified in a Planning Brief and the site requirements detailed within the Local Plan.

Within new housing allocations other subsidiary uses may be appropriate provided these can be accommodated in accordance with policy and without adversely affecting the character of the housing area. Planning Briefs and site requirements detailed within the Local Plan may set out the range of uses that are appropriate or that will require to be accommodated in specific allocations.

Any other use on allocated sites will be refused unless the developer can demonstrate that:

- a) it is ancillary to the proposed use and in the case of proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, or
- b) there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, or
- c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, and
- d) the proposal is otherwise acceptable under the criteria for infill development.

Point B is relevant. Whilst there may be an argument that the latter planning application for a distillery, shows that development of the proposed use is occurring within the Local Plan period, this does not alter the fact that the land zoned is not available to the wider market and that it is in fact constrained.

Accordingly, the Local Development Plan has so far failed to provide employment land which is available to third parties via the Charlesfield Industrial Estate zEL19 area.

This is a material consideration, for if zoning land alone was enough to ensure that the land was developed for its intended purpose, within a defined local plan period, and available to local businesses, then constraints would never occur.