

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 21/00016/RREF

Planning Application Reference: 21/00244/FUL

Development Proposal: Erection of agricultural machinery dealership premises incorporating workshop, show space, office and associated works

Location: Slater's Yard off Charlesfield Road, St Boswells

Applicant: A B Wight Engineering Ltd

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of agricultural machinery dealership premises incorporating workshop, show space, office and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Site Plan	
Elevations	01B
Proposed Building	Render Views

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 13th September 2021.

After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultation Replies; d) Objection comments; e) Additional Information and f) List of Policies, Members considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to additional 3D images of the building. Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered.

However, after further consideration, Members concluded that they did not have sufficient information to determine the Review and that they required Further Procedure in the form of both an unaccompanied site visit and additional information from the applicant and appointed officer by way of a hearing session. The unaccompanied site visit was held on Monday, 25 October 2021 and the matters considered at the hearing were in relation to the availability of industrial land within Charlesfield Industrial Estate and surrounding area.

The hearing was held at 10am on Monday 15th November 2021, after which the Review Body re-convened to consider the case. Members agreed that the Hearing had been useful in providing further information. However, despite the information supplied, Members remained unclear about land available within Charlesfield Industrial Estate and, after discussion, Members concluded that they could not make a determination without further procedure and clarification on land availability. They requested that the applicant meet with the appointed officer and Economic Development, and then provide a Position Statement on land availability at Charlesfield.

The Review was, therefore, continued to the Local Review Body meeting on 17th January 2022 where written submissions, in the form of Position Statements from the applicant and appointed officer, were considered, together with a response from the applicant to the Position Statement from the appointed officer. The Review Body then proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD3, PMD4, ED1, ED2, ED7, HD3, EP3, EP4, EP5, EP6, EP9, EP12, EP13, IS7, IS8, IS9 and IS16

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

- SBC Supplementary Planning Guidance on Countryside Around Towns 2011
- Scottish Planning Policy 2014

The Review Body noted that the proposal was to erect an agricultural machinery dealership premises incorporating workshop, show space, office and associated works at Slater's Yard, off Charlesfield Road, St Boswells.

Members firstly considered the proposal in relation to Policy ED7 which related to business development in the countryside. It was understood that there was a careful balance to be struck between the needs of expanding business and impacts on the countryside. They noted that the site was not within an allocated Industrial Estate such as existed at Charlesfield nearby and was also near to, but outwith the St Boswells settlement boundary as defined in the Local Development Plan. The Review Body understood that a fundamental requirement of Policy ED7 was that any business proposal in the countryside should both prove a need for the countryside location and also that there are no brownfield sites or existing building opportunities within existing development boundaries. These requirements were fully considered by Members, including during the hearing procedures and the subsequent submission of Position Statements from the applicant and appointed officer.

Members concluded that the site had historical and current use as Class 6 Storage and was, therefore, a brownfield site for business development and not unused open countryside. It was understood that the Class 6 Use had been accepted by the appointed officer on the site and Members, therefore, considered the building proposed and whether there was substantiation for the building and intended use at that particular location. Members noted that the use contained elements of Classes 1, 4 and 5 and that there was no clear consensus between the applicant and appointed officer over the predominant use. Whilst usage as Class 5 would require a change of use from Class 6, Members noted the applicant's contention that any Class 4 usage could occur without the need for planning permission. The Review Body concluded that the proposal was a mixed use building proposed on a site with an established Class 6 use history.

Members were provided with detailed information from both the applicant and appointed officer relating to the availability of alternative sites both at Charlesfield Industrial Estate and in the locality. Members also noted that the sites had been discussed by the applicant with both the appointed officer and Economic Development, following the outcome of the hearing process. After careful consideration of all evidence, the Review Body were satisfied that there were no alternative sites immediately available for the proposed development. Members were also content that the proposed use was appropriate and required in a countryside location in the St Boswells/Charlesfield area, noting that the use involved agricultural machinery and having heard that the customer base was local and would not necessarily follow any relocated business. Members also accepted that the current location for the business would be improved by having a single site and building rather than several sites and that there were locational advantages to the business being close to the A68. They also understood that infrastructure would still need to be provided on the site. The Review Body ultimately concluded that the proposal was in compliance with the fundamental requirements of Policy ED7 under criterion c) but also with secondary criterion c).

Members then considered the issue of development outwith settlement boundaries as controlled by Policy PMD4. They noted that the site was outwith St Boswells settlement boundary and also outwith the allocated boundaries of Charlesfield Industrial Estate. The Review Body considered that, for the same reasons that the proposal complied with the fundamental requirements of Policy ED7, the proposal could be allowed as an exception under PMD4, being job-generating development in the countryside where the economic justification had been accepted under ED7.

Members then also considered the visual and landscape impacts in relation to Policy EP6 covering countryside around towns as well as the relevant criteria in other Policies covering the landscape, designated areas and settlement edges such as Policies PMD2, PMD4, ED7, EP4, EP5 and EP9. It was understood that the site could have visual impacts on the countryside and edges to designated areas, albeit after carrying out a site visit and considering the details of the development, Members were of the opinion that the impacts were not significant and could be satisfactorily mitigated by appropriate conditions.

In concluding this, Members noted that the site was separated from the edge of St Boswells Conservation Area and settlement boundary by intervening rural land and lay in an unobtrusive lower-lying location, set back from the road, with a framework of surrounding trees in the vicinity, all reducing the impacts from the village. It was understood that tree and hedge planting was already required to screen the approved fencing along the roadside boundaries of the site. Members considered that this screening, combined with the building height, scale and external materials, would mitigate the visual and landscape impacts of the development when viewed from the public roads to the south. Subject to appropriate additional planting being achieved by condition along the north-western boundary and within the site, Members concluded that the visual and landscape impacts would be acceptable. The selection of appropriate external material colours by planning condition would also reduce the impacts further.

The Review Body finally considered other material issues relating to the proposal including claimed economic benefits, residential amenity impacts, flood risk, water and drainage, access provision and proposed planting. Members were of the opinion that the issues did not influence the overall decision on the Review and could be controlled by appropriate conditions, including the need for a Noise Impact Assessment and additional planting details.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD4, ED7 and EP6 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate use and building for the rural location, it had been demonstrated that there were no suitable alternative sites immediately available within Charlesfield Industrial Estate and the landscape and visual effects could be mitigated by appropriate conditions. Consequently, the application was approved.

DIRECTIONS

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.

CONDITIONS

1. No development to be commenced until samples of all external materials for the building are submitted to, and approved in writing by, the Planning Authority. The building then to be erected in accordance with the approved materials.
Reason: To safeguard the visual amenity of the surrounding area.
2. Lighting illumination not to exceed 250 candelas per square metre.
Reason: To ensure that there will be no distraction or dazzle to the drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

3. No development to be commenced until a detailed site layout plan has been submitted to, and approved in writing by, the Planning Authority. The plan shall include further details of:

- Site levels to indicate surface water drainage
- External lighting
- Parking
- Access junction works

The development then to proceed in accordance with the approved plan.

Reason: In the interests of road safety.

4. The use not to become operational until a Noise Impact Assessment has been submitted to, and approved in writing by, the Planning Authority. The building and use then to be operated fully in accordance with the Assessment.

Reason: To safeguard and minimise potential noise impacts on adjoining residential amenity.

5. No development to be commenced until further planting details are submitted to, and approved in writing by, the Planning Authority in relation to the north-western boundary of the site and the noted "Green Space" area on the approved Site Plan. The planting details shall include a timescale for implementation, a maintenance scheme and avoidance of conifer species. Planting then to be carried out in accordance with the approved details.

Reason: To safeguard the visual amenities of the area.

6. Notwithstanding the terms of The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, any proposals for site and building advertisement that would be classed as having express consent under the Regulations, should still be submitted to, and approved in writing by the Planning Authority before installation. Any proposals that would be classed as not having express consent should be submitted as an Application for Advertisement Consent and not installed until such application is approved.

Reason: To safeguard the visual amenities of the area.

7. No development to be commenced until a detailed drainage scheme for the building and site is submitted to, and approved in writing by, the Planning Authority. The scheme shall include proposals for compensation for displacement of flood waters. Once approved, the development then to proceed in accordance with the approved scheme.

Reason: To ensure that the site is adequately serviced and mitigation is proposed for the identified flood risk.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

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.

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.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions 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 of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.
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Signed Councillor S Mountford
Chairman of the Local Review Body

Date 27th January 2022

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