

**Appeal regarding: Condition set within Planning decision for
Application No: 23/00553/FUL**

**Planning Application at land east of Unit 3 Croft Park Industrial
Estate, Morebattle, Kelso, Scottish Borders**

**Change of use from Agricultural land to lorry storage yard and
erection of building**

Applicant: James Y Burns Haulage

fbrseed

LAND AGENTS &
CHARTERED SURVEYORS



Planning Ref: 23/00553/FUL

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Below is our appeal regarding a condition set within Planning decision 23/00553/FUL, for which various pieces of evidence are added as appendices:

Appendix 1 – Finalised detailed site plan

Supporting document by FBRSeed

Planning Decision

Appendix 2 – Local Development Plan for Morebattle

Appendix 3 – Roads response (email) 12 May 2023

Appendix 4 – FBRSeed's written response to Roads 17th May 2023

Appendix 5 – email trail with Roads & Planning Officer re. justification for path and where it should be located

Appendix 6 – Roads response 14th July 2023 & FBRSeed email trail responding

On behalf of our client, we submitted a planning application to create a Lorry Park for approximately 6 livestock haulage lorries with the future possibility of erecting a livestock shed and a wash bay to Scottish Borders Council Planning Department. The finalised detailed site plan is attached at **Appendix 1**, as well as our supporting document which was submitted along with the application.

The application was submitted on the 5th April 2023, with the addition of the shed and wash bay on to the drawings on 4th June, for which we received the decision on the 29th August 2023 confirming that the application was successful subject to conditions – one of which is the subject of this appeal –

Condition 6 – *‘No development shall be commenced until the precise construction details of the bell mouth and pavement (and precise street lighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority.*

Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority.

Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety’

Background

The applicant currently operates out of a unit on a farm between Kelso and Morebattle which has recently been granted planning consent to develop a distillery. One of the conditions of the development was that the haulage business is relocated. As a result, the applicant lodged the above application to move their business back to the village of Morebattle where it first started, when it was previously located in the center of the village many years ago.

The site our client is looking to develop is on the western outskirts of the village of Morebattle south of the town of Kelso and was zoned by the Local Development Plan for ‘Business and Industrial use’ as an extension to the existing Croft Industrial Park (marked MORE001 at **Appendix 2**).

The LDP and propose LDP specifically state that ***‘separation between employment sites and settlement should be retained by not developing the slope towards the Primary School’*** - leaving an area undeveloped to the east of our client’s application site before the settlement boundary.

Furthermore, the LDP suggested access to this site would be through the existing industrial site, marked BMORE002 on the LDP.

Entranceway considerations

Upon researching our application, the applicant approached the businesses within the adjacent Industrial Park to discuss access, determining that the access is owned by a third party and is not an adopted road, therefore access would need to be by negotiation. Furthermore, access into the center of the site makes for a large unworkable space to enable lorries to turn etc. and as a result, the application proposed a new access direct off the B6401 into the site, which has been agreed with Roads.

The proposed new entrance is on the Western edge of the proposed site (allowing sufficient distance from the boundary to create a compliant entrance for articulated lorries to enter/exit the site).

As not only the entranceway, but most of the development site is out with the village 20mph zone, care was taken with regards to visibility splays, assuming that although drivers will have just left a 20mph zone or would be slowing for an imminent 20mph restriction, therefore within a 60mph speed limit along this stretch of the B6401 and therefore a minimum of 160m visibility splay in each direction would be required.

Furthermore, due to the topography of the B6401 steepening as it approaches the western edge of the village, this entrance point gave the most sufficient visibility splays. Moving only a short distance towards the village started to restrict visibility splays.

This new entrance would be adjacent to the existing entrance to Croft Industrial Park and diagonally adjacent to a very recently created large concrete entrance into a field across the B6401 from the proposed site.



Google Maps Streetview looking east towards Morebattle, our proposed entrance marked red, Cessford Motors entrance on the left and the new farm entrance on the right

Meeting with Roads

Upon submission of the application, we arranged to meet with Roads on site to discuss the proposal, agreeing on 16th May. The Roads department then submitted their initial comments and concerns less than 24 hours prior to our meeting, attached at **Appendix 3**.

On site we therefore discussed their concerns, which I felt I was able to counter or give reassurance to the various points including location of the site entrance, and another being the possibility of creating a footpath from the village to the site entrance. Roads said that as there would then be 3 bell mouth entrances in the vicinity, they *may* look to extend the 20mph zone beyond Croft Industrial Park, and therefore a footpath may be required. At that time I did counter should they wish to change the 20mph zone due to all of these entrances, shouldn't put the sole responsibility on our client with regards to investment of a footpath surely.

There has been no comment since that this condition is as a result of a change to the speed limit, and in their written response of May it simply asked for:

'details of the extension of the existing pedestrian route and street lighting from their existing termination to the access to the site.'

We believed that as this was written before our site meeting, it was merely a misunderstanding suggesting we were offering this, however site meeting and then written response clarified as there is no justification for this, the applicant would not be including a footpath and street lighting as part of the application.

Appendix 4 shows that in our response of 17th May we explained that this is a private lorry park for which the 6-7 staff all live out with the village and commute by car. Furthermore, the site would be locked at all times when the lorries are out on site, and no external parties should be taking access to the site for Health & Safety reasons, therefore there would be no need for anyone to walk to and from the village to our site. I reiterated that the landowner who owns the proposed site also owns the green space between the site and the village, therefore should any staff deem it necessary to walk to the village (which is very unlikely), this could be done safely within the field boundary, but no members of the public should be entering the site.

Roads appeared happy with this explanation on site and asked that I respond as soon as I return to the office as perhaps some of their queries were made in haste, which we submitted the next day (17th May).

Once we submitted what we believed to be all of the relevant information, there was a period of trying to make contact with the planner for an update on a decision which we had been expecting in June, and it was only when we gained a response on 14th July that the Planner confirmed the footpath was a formal requirement which had been confirmed by Roads in a further response, forwarded on to my on the 14th July – (a copy of SBC Response and FBRSeed's reply to this response at **Appendix 6**).

This is the first time NPF4 was used as a justification for the footpath, stating that it places greater emphasis on 'active travel and connectivity'. The Roads department also felt that by erecting a livestock shed (which would be used as layerage to enable livestock making a long journey to have a break from travel for a short period) we 'need to introduce a method for safe travel to walk to Morebattle should staff wish'. This response also stated, '*it should be noted that there may also be a requirement for street lighting over this section of proposed footway*'. At the date of submitting this appeal (26th September 2023) we still have had no confirmation from Roads as to whether lighting is required, just short of 6 months after submitting the application. And if it is a requirement, no development can take place until installed.

The footpath must lead from the curtilage of the village to the entrance to our site, a length of approximately 165m, to an acceptable standard with a roadside kerb. This would be a significant cost to the applicant, making his modest lorry park proposal unviable. We challenged why the pavement could not go on the opposite side of the road leading to the farm entrance that was created within the previous year, to which Roads replied that there is no reason why it couldn't be (email attached at **Appendix 5**). Why therefore is it our client's cost to bear and if it is to connect our development, why would a pavement on the opposite side of the road be sufficient. The cause behind the pathway is not clear, and we don't feel justified.

The possible erection of a building for layerage only provides short term accommodation for livestock, there would not be staff on site all day, therefore the requirement to walk to the village has not increased as a result of this amendment to the application.

Once we had confirmation that Roads were insisting on a footpath, we responded disagreeing with this (also detailed within the email trail at **Appendix 5**). Our planner responded separately explaining that if our application is successful, it would be a condition that could be appealed, but not before. We did not receive a formal decision to this until 29th August, a further 6 weeks later.

National Planning Framework 4 (NPF4)

NPF4 came into force earlier this year, looking at a National Spatial Strategy for Scotland 2045 with extra consideration for street design. We are informed that the justification for a footpath is as a result of NPF4, which we would like to counter as part of this appeal. We believe the below Policies are being used as justification for the footpath

Sustainable Transport, Policy 13 stating that:

Development will be supported where it can demonstrate that the transport requirements generate have been considered in line with sustainable travel, where they i) provide direct, easy, segregated safe links to local facilities via walking, wheeling and cycling networks before occupation.'

Furthermore, **Design, Quality and Place Policy 14** stating that development will be supported if it meets the six qualities of successful places, including 'Connected: Supporting well connected networks that make moving around easy and reduce car dependency'.

Our counter view however is that Morebattle is remote village south of Kelso, near the English border. The village has a small population of approximately 400, many of whom are retired or commute for employment.

J Y Burns Haulage previously had their depot within the village; however the villagers were concerned about the disruption caused by large lorries turning and parking off the narrow main street, therefore when an opportunity to move arose, the business moved several miles away to its current location. All parties were happy with this decision.

None of the employees of the business reside in Morebattle, all commuting by car, and will continue to do so at the new site. With shift patterns and a limited public transport system to this remote village, this is the only method of commuting to work. Policy 13 encourages walking but also cycling networks, which could benefit employees in the summer months that are close enough to cycle, however this is dependent on a network of cycle networks on the roads, for which there are no cycle provisions in the locality. This is shortfall of SBC, not the applicant.

The nature of the applicant's business is that lorries are collected, and drivers are either away all-day moving livestock, or more commonly away all week, from Monday morning until Friday afternoons. We do not anticipate therefore that the footfall to the village shop will increase at all because of this development. Furthermore, it is a private lorry park with no public access so there is no requirement for this business to have a connection to the village, and no requirement for the village to have a connection to the business.

We would argue instead that by adding this condition to our client's consent, making it economically unviable, goes against two of the six overarching spatial principles within NPF 4, namely:

- **Rebalanced development** - target development to create opportunities for communities and investment in areas of past decline and manage development sustainably in areas of high demand.'

Rural revitalisation – 'encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together'.

This site has been zoned for industrial/business within the current Local Development Plan which was adopted in May 2016. The 2020 Proposed LDP remains unchanged for Morebattle with the exception of the population rising slightly. There has not been any expansion in residential building, and the primary school has only expanded in numbers due to taking in a larger catchment area. The village is in decline and in need of some investment to help it prosper for future generations.

The proposed LDP residential and business opportunities remain the same, having not been developed since zoning in 2015/16. The applicant is looking to move his business to the edge of the village, creating growth for the area however if economic barriers are imposed by SBC on development of such sites, they do not thrive.

Withing NPF4, 'Street Designing and National Planning Framework' gives ways of improving street design, such as ways to connect with adjacent street networks, encouraging walking, be safe and pleasant, to connect well to existing movement networks etc. In this instance, however

the proposed development is out with the village, therefore we do not believe to be within a 'street network'. It is an extension to an existing industrial site located near the village.

The same policy wants to build on the 'National Walking, cycling and wheeling network' by 'extending a national active travel network to reduce emissions from transport, ***focusing on areas where improvements to accessibility are most needed.***' We do not believe that creating a footpath from the edge of the village to the entrance to our private car park meets any of these needs. Cycle routes and increased public transport to the area is needed, but a footpath to a private business out with the village does not provide any benefit to the inhabitants of Morebattle or the employees of our client's business.

Conclusion

To conclude, we are grateful for the successful granting of planning consent for our applicant's planning application, however we do not believe that Condition 6 is a fair, or fully justified condition. The additional investment required by the applicant to meet this condition alone before starting his development of a lorry park would make the project completely unviable, therefore unless this condition could be lifted, this development will not be able to take place.

Scottish Government planning and economic policies all target boosting rural areas whilst protecting their rural character, however if conditions make it unviable for businesses to invest in the area, these villages will be unable to thrive for future generations.

Thank you for your time.

Jennifer Douglas, MRICS FAAV
Director

FBRSeed Ltd
Rose Lane
Kelso
TD5 7AP

Jenni.douglas@fbrseed.com



Supporting Statement
For the creation of a lorry storage yard
For James Y Burns Haulage

Produced: April 2023

fbrseed
LAND AGENTS &
CHARTERED SURVEYORS

Introduction

The applicant, James Burns Haulage is an established livestock haulier based in the Scottish Borders, transporting primarily sheep across the United Kingdom. The business has a fleet of 6 livestock lorries which are parked overnight on a local farm, however due to a change in circumstances the business now requires to find a new premises.

Application Aim

This application is for the change of use from Agriculture to Business & Industrial through the creation of a new yard to store the business's livestock transporters (Plan at **Appendix 1**). The proposal would create a new entrance off the B6401 directly adjacent to Croft Industrial Park (to the East) and diagonally across from the recently created entrance to Whitton Farm, on the outskirts of Morebattle.

Lorries would park in a row along the existing hedge line boundary to the site, providing sufficient area for turning.

Siting

The proposed yard will be within the area known as BMORE001 within SBC Local Development Plan (Map at **Appendix 2**) which is zoned to be an extension of Croft Industrial Park. The area of the yard will total 0.60 Ha and will be based directly adjacent (to the East) of the existing Croft Industrial Park on the flatter area of land, providing a natural sloped boundary between the industrial space and Morebattle Primary School to the East, as specified in the Local Plan Site Requirements for this site. Photographs of the site are at **Appendix 3**.

The yard will have a new entrance created approximately 4.5m from the boundary hedge, providing sufficient space for articulated vehicles to enter and exit the site safely. By creating a new entrance rather than using the existing entrance further east – which is only 30m out of the village, the site is kept quite separate from the residential area and provides more than sufficient visibility splays in excess of 160m in each direction (Photographs of visibility at **Appendix 4**).

Services

The site will be excavated and levelled, removing the top-soil and laying an area of hardstanding if required (approx. area shaded grey on the plan). Power will be taken from the 3-phase transformer North of the site, and water will be taken from the mains which we understand runs up the verge along the B6401.

Supporting Statement for App Ref: 23/00553/FUL

There is a ditch running along the roadside which is currently running dry, however, as with the neighbouring industrial estate, across the entrance way this ditch will be piped and laid with tarmac into the site.

A drain will be laid along the western boundary of the site to catch surface water as it flows towards the edge of the site.

A septic tank will be installed to the west of the site to provide facilities for a portacabin toilet for staff.

An area will be developed to safely wash the lorries and dispose of the water safely in accordance with SEPA guidance. We are in the process of trying to arrange a site meeting with SEPA to discuss their requirements as part of the application.

Precedent

The proposed site is recommended for industrial use and is adjacent to an industrial yard with a similar entranceway off the B6401. Furthermore, adjacent to the site is recently developed entranceway to Whitton Farm, photographs of existing entranceways at **Appendix 5**. By keeping industrial uses to the outskirts of the village it is hoped that it reduces any safety concerns of vehicles being parked in the village, on a site with good visibility in every direction.

Planning Guidance

This proposal meets the Local Development Plan, which has designated this site as Business and Industrial, as defined in Policy ED1. The applicant is willing to plant a tree line boundary to the east of the site if desired and will retain the hedgerow to the west of the site.

Although the LDP mentions access to the site may be possible via the adjacent site, we feel that due to the size of vehicles used by the business, from a safety perspective, the business should use its own access to and from the site.

Policy ED7 – Business, Tourism & Leisure Development in the Countryside' notes that SBC considers that opportunities do exist at appropriate locations outwith settlements where economic activity can take place. Furthermore, it highlights that the Scottish Government acknowledges that one of the core values of the planning service is to play a key role in facilitating sustainable economic growth, particularly strengthening economic capacity and resilience within communities.

This yard would enable the business to store its vehicles on the outskirts of the village where the owner resides, without impacting the village, improving safety due to proximity to the site and time saving travelling to a yard elsewhere. Due to a change of circumstances for the

Landlord of their current premises, the business must move imminently, therefore for the future functionality of the business, a new premises is required.

Due to the nature of the business transporting livestock, and the size of the lorries, the possibility of finding a suitable empty yard is proving extremely challenging, therefore the applicant feels the best way to progress is to invest in a new purpose built site for his business.

Appendix 1 - Proposal Plan for Application



Appendix 2 - Local Development Plan Map for Morebattle



Scottish Borders Council
Local Development Plan 2016
Morebattle

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

Appendix 3 - Photographs of site



Looking West from eastern edge of site (roadside to the left of picture)



Looking North West across site

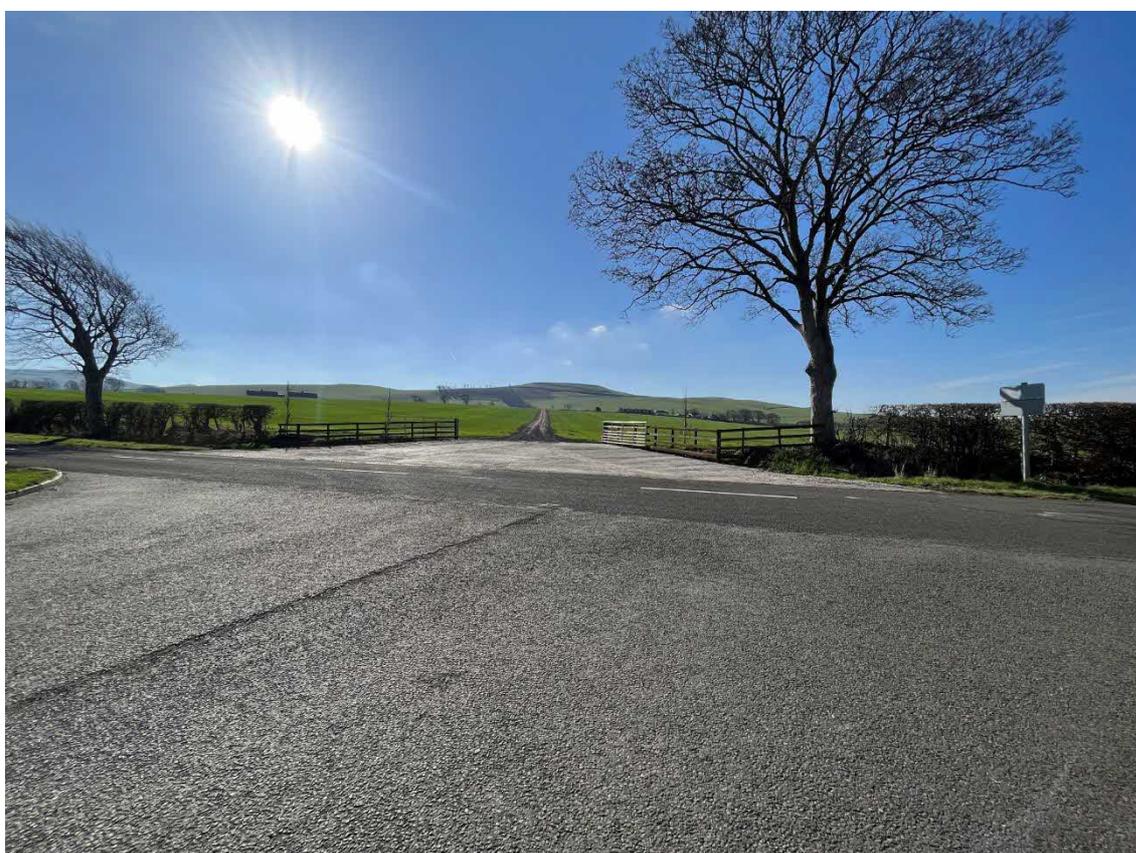


Looking North with western boundary hedge shown on the left

Appendix 4 - Photographs of adjacent entranceways



Looking across to Croft Industrial Park entrance



Looking across to Whitton Farm Entrance

Appendix 5 - Visibility Splay Photographs (photographs taken from approximate entranceway)



Looking East into village



Looking West



James Y Burn Haulage
per FBR Seed Ltd
Rose Lane
Kelso
Scottish Borders
TD5 7AP

Please ask for: Euan Calvert
 01835 826513
Our Ref: 23/00553/FUL
Your Ref:
E-Mail: ecalvert@scotborders.gov.uk
Date: 29th August 2023

Dear Sir/Madam

**PLANNING APPLICATION AT Land East of Unit 3 Croft Park Industrial Estate Morebattle
Kelso Scottish Borders**

PROPOSED DEVELOPMENT: Change of use from agricultural land to lorry storage yard
and erection of building

APPLICANT: James Y Burn Haulage

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at <https://eplanning.scotborders.gov.uk/online-applications/>. Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager



Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 23/00553/FUL

To : James Y Burn Haulage per FBR Seed Ltd Rose Lane Kelso Scottish Borders TD5 7AP

With reference to your application validated on **6th April 2023** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Change of use from agricultural land to lorry storage yard and erection of building

at : Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders

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 (as amended), subject to the conditions attached to the following schedule for the reasons stated.

**Dated 25th August 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

**John Hayward
Planning & Development Standards Manager**

APPLICATION REFERENCE : 23/00553/FUL

Schedule of Plans and Drawings Approved:

| Plan Ref | Plan Type | Plan Status |
|-----------------|--------------------|--------------------|
| 100 | Location Plan | Approved |
| 102 REV B | Proposed Site Plan | Approved |
| 103 REV A | Proposed Sections | Approved |
| 101 | Existing Sections | Approved |

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

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.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 3 No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details:
 - i. Proposed plans and elevations of the building;
 - ii. Full details of the external materials, including colour, to be used in the construction of the building;
 - iii. The finished floor levels of the building hereby approved;have been submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details.
Reason: To protect the character and amenity of the area.
- 4 The site and building hereby approved shall only be used for Class 4 (office, research and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: To ensure that the use remains compatible within the site.

- 5 No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details.
Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.
- 6 
- 7 No development shall commence until precise details of:
i. location of new trees, shrubs, hedges and grassed areas
ii. schedule of plants to comprise species, plant sizes and proposed numbers/density
iii. programme for completion and subsequent maintenance.
of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority.
Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.
Reason: To ensure that the proposed landscaping is carried out as approved.
- 8 Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.
- 9 The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity.
Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.
- 10 No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood.
Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural 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.

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 1997 (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 available on the Council's website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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**

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings – pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

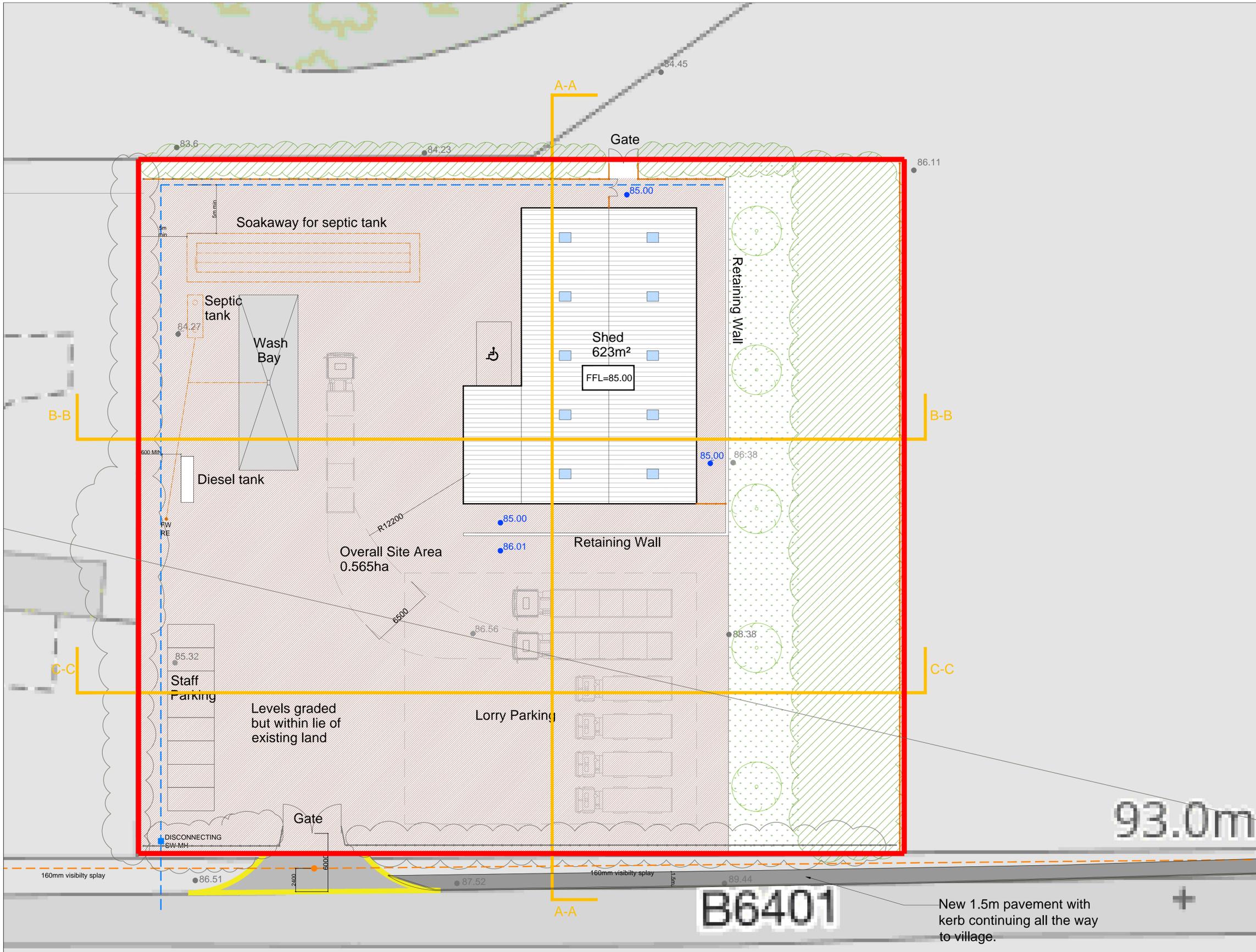
- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work <https://www.sgn.co.uk/damage-prevention>

Further information can also be found here <https://www.sgn.co.uk/help-and-advice/digging-safely>

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.

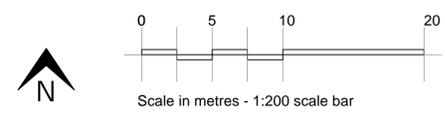
If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a [request for local review](#) form and return it to the Clerk of the Local Review Body, Democratic Services, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

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 (as amended).



- KEY**
- SITE BOUNDARY
 - RIGHT OF ACCESS
 - TYPE 1 AGGREGATE FORMING HARDSTANDING
 - EXISTING CATTLE FENCING
 - PROPOSED CATTLE 1m FENCING TO MATCH EXISTING
 - PROPOSED SURFACE WATER FIELD DRAIN
 - PROPOSED 110mm dia (UNO) PVCu BELOW GROUND FOUL DRAINAGE
 - NEW 1.5M PAVEMENT WITH 255X125MM HALF BATTERED P.C KERB ALONG ROADSIDE. SPECIFICATION AS PER SBC ROADS DRAWING DC-10 FLEXIBLE CONSTRUCTION: SUB BASE: 280MM SUB-BASE TYPE 1 BINDER COURSE: 50MM DEEP AC20 DENSE BINDER 100/150 TO EN13108-1. SURFACE COURSE: 30MM DEEP AC6 DENSE SURF 100/150 TO EN13108-1

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 Drawings to be read & fully understood before work commences. **IF IN DOUBT ASK.** Use figured dimensions only.
 All dimensions, spot levels and drainage positions to be checked on site by Contractor prior to construction. Any discrepancies to be reported back to FBR Seed Ltd.



| | | | | | | | |
|---|-------------------|--|--------|--|----|----|----|
| Project Lorry Storage Yard Morebattle, Kelso James Y Burns Haulage | | A Updated to planner comments B Pavement added along roadside | | 19.07 | SB | LD | LD |
| Title Proposed Site Plan | | X | X | X | X | X | X |
| Rev | Description | Date | By | Chk'd | | | |
| Status PLANNING | | | | | | | |
| Scale 1:200 @ A1 | | | | | | | |
| Date 06.23 | Project Reference | Draw No. 102 | Rev. B | 48 High Street Haddington East Lothian EH41 3EF t: 01430 524900 e: architecture@fbrseed.com w: fbrseed.com/architecture | | | |
| Drawn SB | Chk'd NB | | | | | | |

DEVELOPMENT AND SAFEGUARDING PROPOSALS

HOUSING

| SITE REFERENCE | SITE NAME | SITE SIZE (HA) | INDICATIVE SITE CAPACITY |
|---|----------------------|----------------|--------------------------|
| RMO6B | Renwick Gardens | 0.4 | 9 |
| Site Requirements | | | |
| <ul style="list-style-type: none"> Refer to approved Planning Brief. | | | |
| AMORE001 | West Renwick Gardens | 1.3 | 20 |
| Site Requirements | | | |
| <ul style="list-style-type: none"> Refer to approved Planning Brief. | | | |

BUSINESS AND INDUSTRIAL

| SITE REFERENCE | SITE NAME | SITE SIZE (HA) | INDICATIVE SITE CAPACITY |
|---|------------------------------------|----------------|--------------------------|
| BMORE001 | Extension to Croft Industrial Park | 0.6 | N/A |
| Site Requirements | | | |
| <ul style="list-style-type: none"> This is a business and industrial site as defined in Policy ED1 Structure planting required on the northern and eastern boundaries to provide setting for development. A management scheme for planting is also required Existing hedgerow to the west should be retained Retain separation between employment sites and settlement by not developing in the slope towards the Primary School Access is possible from/to the existing employment land site to the west and direct access is possible from/to the B6401 Mitigation measures are required to prevent any impact on the River Tweed Special Area of Conservation. | | | |

BUSINESS AND INDUSTRIAL SAFEGUARDING

| SITE REFERENCE | SITE NAME | SITE SIZE (HA) | INDICATIVE SITE CAPACITY |
|--|-----------------------|----------------|--------------------------|
| BMORE002 | Croft Industrial Park | 0.6 | N/A |
| Site Requirements | | | |
| <ul style="list-style-type: none"> This is a business and industrial safeguarded site as defined in Policy ED1. | | | |

KEY GREENSPACE

| SITE REFERENCE | SITE NAME | SITE SIZE (HA) |
|----------------|---------------------------------|----------------|
| GSMORE001 | Morebattle School Playing Field | 0.4 |

Scottish Borders Council
Proposed Plan 2020
Morebattle

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



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Disclaimer: Scottish Borders Council uses spatial information from a range of sources to produce the mapping contained within this document. The mapping is for illustrative purposes only. The original sources should be consulted to confirm information.



Scottish Borders Council
Local Development Plan 2016
Morebattle

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



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Disclaimer: Scottish Borders Council uses spatial information from a range of sources to produce the mapping contained within this document. The mapping is for illustrative purposes only. The original sources should be consulted to confirm information.

**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

| | | |
|--|---|---|
| Comments provided by | Roads Planning Service | |
| Officer Name, Post and Contact Details | Mark Payne Roads Planning Officer | mark.payne@scotborders.gov.uk 01835 825018 |
| Date of reply | 12 th May 2023 | Consultee reference: |
| Planning Application Reference | 23/00553/FUL | Case Officer: Euan Calvert |
| Applicant | James Y Burn Haulage | |
| Agent | FBR Seed Ltd | |
| Proposed Development | Change of use from agricultural land to lorry storage yard | |
| Site Location | Land East Of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders | |
| <p><i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i></p> | | |
| Background and Site description | LDP allocated site BMORE001 Extension to Croft Industrial Park (Business and Industrial) | |
| Key Issues (Bullet points) | <ul style="list-style-type: none"> • Access • Traffic | |
| Assessment | <p>Whilst I have no concerns regarding the extension of the industrial estate, I have some concern with the proposal as submitted. Approval of the layout indicated is likely to prejudice the extension of the industrial estate as laid out in the Council's current Local Development Plan (LDP). Site BMORE001 allows for the extension of the industrial estate but I would have expected any extension to have utilised the roads within the existing industrial estate site to serve the additional ground. The supporting information within the LDP states access is available to/from the B Class road, however this would be to serve the extension and not a single plot. We have a presumption against new accesses on to a B Class road outwith the settlement boundary and whilst there is an existing access, this application proposes a new access for a single plot, or larger junction to serve a larger area, rather than utilising the existing road infrastructure. As part of any extension to the estate we would also expect the pedestrian route and street lighting to be extended from their existing location to the site access.</p> <p>In order to fully consider this application, I require further details as indicated below:</p> <ul style="list-style-type: none"> • Confirmation as to why the site cannot be accessed via the existing industrial estate road. • Provide visibility splays showing what is achievable in both directions from the proposed access. • It is assumed that staff will be travelling to/from site in cars in order to Pick-up/leave their lorries. Please indicate the location and number of proposed parking spaces, with provision for manoeuvring for all vehicles within the site so that they can exit onto the public road in a forward gear. | |

| | | | | |
|---------------------------------|---|--|---|---|
| | <ul style="list-style-type: none"> • Provide a transport statement showing the anticipated impact of heavy vehicle movements, particularly through Morebattle. • Details of the extension of the existing pedestrian route and street lighting from their existing termination to the access to the site. | | | |
| Recommendation | <input type="checkbox"/> Object | <input type="checkbox"/> Do not object | <input type="checkbox"/> Do not object, subject to conditions | <input checked="" type="checkbox"/> Further information required |
| Recommended Conditions | | | | |
| Recommended Informatives | | | | |

Signed: AJS

23/00553/FUL – Response to Roads & Community Council

Response to Roads:

We met with the Roads department this morning, 16th May 2023 to discuss our application. There were several issues raised, many of which were noted in their consultation response. We have therefore chosen to respond to all comments made, including those in their response dated 15th May 2023;

Q: Confirmation as to why the site cannot be accessed via the existing industrial estate road

A: The existing industrial estate road is owned by a third party, not an adopted road as far as we are aware, therefore we would need to negotiate a right of access across their land, and then the access comes in to the middle of the proposed plot meaning any potential development further west all needs to come through the centre of the site making it an unworkable space for turning lorries etc.

Q: Provide visibility splays showing what is achievable in both directions from the proposed access

A: Having met on site, we have discussed and agreed that visibility is clear in both directions more than the minimum distance for a 60mph speed limit (min 160m in either direction). Photographs and a plan of the visibility splay is attached.

Q: It is assumed that staff will be travelling to/from site in cars to pick-up/leave their lorries. Please indicate the location and number of proposed parking spaces, with provision for manoeuvring for all vehicles

A: As assumed, and as confirmed at our site meeting, staff travel to and from the site by car to collect/leave lorries, therefore as discussed there is no requirement for pedestrians to walk to the proposed site. Furthermore, the proposed use means the site would not be open to the general public therefore again, we do not agree that there is any requirement for the applicant to be required to install a footpath and lighting outwith the settlement boundary down past the site to the existing industrial site.

To set this as a condition of the planning consent for such a business would be an unfair condition, and we do at this early-stage object to this.

The adjacent commercial business, which *is* open to the public, whom drop and collect vehicles, did not have to comply with such a condition therefore it is not reasonable to ask a lorry yard to do so, in what could be seen as a retrospective condition for an existing business.

For clarity, we have amended the site plan to show the area designated for staff parking. Plan attached.

Q: Approval of the layout indicated is likely to prejudice the extension of the industrial estate as laid out in the Council's current Local Development Plan (LDP).

A: As discussed at our site meeting, the proposed site is the full extent of BMORE001, which totals 0.60 Ha, leaving an area of agricultural land between Morebattle Primary School and the Industrial Park, essentially keeping it away from the village. We are therefore applying for consent across the whole of the newly zoned business/industrial area. (Copy of LDP Map attached)

As a result, this proposal would not be blocking access to any future industrial uses on the land between the site and the school, which was a concern of the roads department. The new access is to the whole of the zoned extension of the existing industrial site, not a single plot within the larger zoned area as the Roads department had mistakenly feared.

The LDP statement therefore does support a new access from the main B Class Road outwith the settlement boundary for such a purpose.

Design & Construction

The entranceway would be of similar scale to that into Croft Industrial Park, enabling lorries sufficient width to turn and access the site. The centrelines of the two roads would be approx. 50m apart, meeting the roads preference to be at least 40m apart. The first 6m from the existing road would be laid to a tarmac surface with a kerbed edge, before moving to a type-1 surface within the development site.

The site would be bound on the west by a livestock fence – standard 5 plain and 1 barb, with a livestock gate into the adjacent field. This fence line could have a length of hedging established within the development site to screen the site from the village should the planners request it, as per the roadside and western boundaries which would remain with livestock fences and established hedgerows. The northern boundary would continue the livestock fence that currently bounds the site to square the site off with the new eastern boundary.

The site entrance would have a set of two livestock gates across it which will be locked, fully enclosing the site but keeping the boundary materials in keeping with its agricultural surroundings.

Comments made by the Kalewater Community Council:

Q: The disturbance to the peace and tranquillity of the village, which could be at unsociable hours

A: The business carries a fleet of 6 livestock lorries, a combination of larger articulated lorries and smaller lorries. Most of the business's contracts require lorries to travel long distances so are often away from Monday morning and returning on the Friday. Smaller, more local jobs would mean that a couple of smaller lorries return daily, however the majority of the work is further afield therefore there will not be 6 lorries leaving and returning daily. Furthermore, the entrance is located adjacent to a farm entrance and existing industrial estate entrance, as far away from the village within the zoned site as possible, significantly reducing any potential impact to village tranquillity.

Q: The close proximity to the Primary School, and possible disruption from noise during the school day

A: This area has been zoned for business/industrial use by SBC's Local Development Plan, and we believe compared with many industrial uses, such as the existing garage adjacent where a business is open to the public, a lorry storage yard for 6 lorries would have minimal impact on the local community by comparison.

Furthermore by siting the main infrastructure as far to the West, the natural topography along with a boundary fence will screen the majority of the site from the village.

Q: The dangers associated with the increase in heavy traffic, with special concern for the school traffic, cyclists and walkers (of which there are many as we are on the national route of St. Cuthbert's Way)

A: Unless there was a requirement to collect livestock from the farms to the south of the village, (which are few and far between) vehicles will not be travelling within the village boundary. Their main area of work requires them to travel to the main trunk roads and would therefore travel north away from the site to begin their commute to collect livestock further afield. This would mean the number of vehicles used through the village would be no more frequent than if parked else where and still accessing the valley to the south.

The St Cuthbert's Way travels along many rural roads that have no footpath, and are accessed by large agricultural machinery, for which access takers are aware of the potential risk and take caution on such routes. We do not anticipate storing 6 lorries next to a commercial garage will have any additional negative impact on pedestrians and cyclists who choose to travel along this pathway, which in places such as Morebattle, utilising road verges as a core path connecting road.

Furthermore, as vehicles are often away all week, or certainly all day, we do not anticipate this having any more of an impact on school traffic and would in fact have less of an impact than the current farm traffic in the area which is wider and often can be towing trailers of feedstock close to or through the village to feed livestock on surrounding farms.

Q: The proximity of the proposed entrance so close to the new entrance that has been created for farm traffic to Whitton has been raised by a councillor from the farming community.

A: When speaking with the roads department onsite, it was agreed that there is a benefit to keeping all construction traffic within the same vicinity, so long as an entranceway is at least 40m away from an existing entranceway. We were unable to source the planning documents for the Whitton entrance to understand the roads commentary with regards to creating a new entrance directly opposite an existing commercial entrance, however we have consulted using the permitted entrance into Cessford Motors and the proposed new entranceway would be more than the preferred 40m distance, on the same side as the existing industrial unit, avoiding any confusion of large traffic coming from both sides of the road.

The alternative would be to access the site from the field entrance within the existing village boundary, significantly closer to the school and residential properties, therefore all parties agreed the proposed siting was the preferred option.

Jenni Douglas

From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: 27 July 2023 14:27
To: Jenni Douglas
Cc: Sean Borthwick
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Some type of kerb would be required at the edge of the carriageway in order to protect the pedestrians using the footway.

I would have no objections to a footway being on the opposite side of the road.

Kind regards,
 Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Thursday, July 20, 2023 11:50 AM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Sean Borthwick <sean.borthwick@fbrseed.com>
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Hi Mark

Just clarifying does the footpath need kerbed? There's a nice wide margin up the side of that road so I'd be tempted to keep the footpath in towards the hedge, therefore the kerb would be in the middle of the verge.... But nobody would want to use the whole width of verge as a path.

Another suggestion that was given was, since the business adjacent has made an entranceway into their farm, why can't a footpath go down that side?

Thanks

Jenni

Jenni Douglas, MRICS FAAV
Director
 Direct Dial: 01361 310 286
 Office: 01573 224 381
 Mob: 07920 479 094

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From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: Tuesday, July 18, 2023 3:23 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Please see attached standard detail for footway specification.

It is my understanding that as the works are to be carried out within the public road boundary, then consent would be given as part of the approval. All work within the public road boundary must be undertaken by a contractor first approved by the Council.

Please note that construction of a footway will require some consideration into how any surface water will then be disposed.

Kind regards,
Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Tuesday, July 18, 2023 2:51 PM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: Re: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Hi Mark

Can you confirm is there a mandatory surface, depth, bound, kerbed etc.

Obviously, the minimal the better but I need to know what the minimum is to have it drawn.

I presume the verge is owned by the council and we would have all the necessary consents from them?

Regards

Jenni

From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: Tuesday, July 18, 2023 2:46:40 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Thanks for your email and I understand your concerns. However, the Roads Planning team have discussed this internally and it would remain our recommendation to the Planning Officer that a public footway adjacent to the road is required as part of developing this site. This would generally be between 1.5-2m in width and run from the proposed site entrance, linking into the existing public pedestrian network at Morebattle. I am still awaiting advice from the Street Lighting team as to whether this would need to be lit and will let you know in due course.

Kind regards,
Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Monday, July 17, 2023 2:33 PM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Response to comments 11 July 2023

Good afternoon Mark,

I am writing to you further to your comments made to Euan Calvert on 11th July 2023 in regard to our client's application to develop a lorry yard to the east of Croft Park Industrial Estate, Morebattle.

Firstly thank you for agreeing that the entrance is in the best location and spec etc for the proposed use, we agree this is the best location for visibility etc and keeps traffic away from the village.

Our area of concern is the requirement for a footpath. When we met on site the morning after your initial consultation was published, we explained to yourself and your colleague the nature and small scale of the business, up to 6 lorries leaving a Monday often not returning until a Friday night moving livestock around the country, and in between the site is locked up securely. If they can afford in the future, they may erect a livestock shed to offer 'bed and breakfast' to meet animal welfare standards enabling them to transfer livestock longer distances, stopping over briefly. As stated in my response and reiterated today, none of the members of staff reside in Morebattle, with the current site near Kelso on a remote farm, all staff travel by car and will continue to travel by car. The business used to be located in the centre of the village with staff commuting in and lorries leaving, and locals didn't like it hence they left the village to their current location. When we discussed all of this on site, it was agreed, albeit verbally, that a footpath from the village would therefore be 'overkill'. I understand the rationale of encouraging active travel however in such a remote location, with no staff living locally, this cannot be achieved here.

Furthermore, the business must make sure its vehicles are stored securely, and livestock if ever housed there, are also secure, so do not want members of the public walking down unnecessarily.

Surely if connectivity was the vision for this proposed industrial site, there wouldn't be a gap proposed by SBC to keep the area separate from the village. To keep it outwith the village but then ask for us to connect it, when it has no requirement for public, simply is a contradiction and a requirement that we must strongly challenge.

The landowner who owns our site, as I stated in my response in May, owns the entire field between the village and the site, and we can ask if they would agree to an area being fenced from the village on the inner side of the hedge as a footpath down to the site if deemed essential, however a formal footpath, I presume on the roadside, cannot be justified. Similarly if it were to be street-lit, then the whole project is unviable and will likely not be developed as there is no need for the applicant, and the cost involved compared to the type and scale of business simply trying to store its lorries, is uneconomical.

Just to clarify also you mentioned the shed and portacabin strengthened the case for connectivity, however the portacabin was just to provide a toilet facility for workers which the planner will not permit, and the shed is to occasionally house livestock, again no requirement to connect to the village for this.

I would be very grateful if you can reconsider this requirement, by all means give me a call to discuss. I am on annual leave from this Thursday evening for 2.5 weeks however. I therefore haven't yet asked for a footpath to be drawn up, so would be grateful for a quick response. We do plan to challenge it regardless, but if you are to insist for now, I need to know the spec of footpath you require, and where you wish it to run to and from, and which side of the fence, so that we can instruct these drawings.

Yours sincerely

Jenni Douglas

Jenni Douglas, MRICS FAAV

Director

Direct Dial: 01361 310 286

Office: 01573 224 381

Mob: 07920 479 094



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From: Calvert, Euan <ECalvert@scotborders.gov.uk>

Sent: Friday, July 14, 2023 9:32 AM

To: Jenni Douglas <Jenni.Douglas@fbrseed.com>

Subject: RE: [OFFICIAL] RE: Morebattle site

Good morning Jenny

[23/00553/FUL](#)

I attach the Roads Planning response which requires item 6. Below.

Please make all those changes identified. We have publicly consulted on the proposals now that the Roads Authority have tentatively accepted the location and principle of a new access, subject to visibility splays of 2.4x160. I refer to their previous response 12 May and your site meeting 16 May.

The public consultation runs until 10 Aug and, subject to the changes being made and no objections being raised, we will proceed to determination.

Please call this morning if you would like to discuss any of those points below.

Euan Calvert

Assistant Planning Officer (Development Management)

Planning, Housing & Related Services

Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>

Sent: Friday, July 14, 2023 7:54 AM

To: Calvert, Euan <ECalvert@scotborders.gov.uk>

Subject: Re: [OFFICIAL] RE: Morebattle site

CAUTION: External Email

Hi euan,

I'm due to go on annual leave next Thursday and need to make sure you're not needing anything more from me by then, however I could do with a response to my email of Tuesday.

If we can get a decision quicker we will remove the shed from the plan, but before I ask the architect to make the other cha fee requested I need to know this so as not to incur two lots of charges for changes?

Furthermore we need to know if SBC although unfair, will insist on the footpath and street lights to a private car park for non residents as this may result in us not proceeding any further. Alternatively, it will be challenged in due course.

I hope to hear from you on these matters today so we have time next week if necessary to get the other information to you and amended etc.

I would also like to know what SBC would like for lighting , all detailed in my previous email.

Regards

Jenni

From: Calvert, Euan <ECalvert@scotborders.gov.uk>

Sent: Tuesday, July 11, 2023 5:54:55 PM

To: Jenni Douglas <Jenni.Douglas@fbrseed.com>

Subject: [OFFICIAL] RE: Morebattle site

Good afternoon Jenni

23/00553/FUL

I have adjusted the title of the proposal to include "erection of building" and we will re-advertise/ re neighbour notify now. This must be undertaken to allow public consultation on the amended plans on file 12 June. This is a 15-day period. Both Forward Plans and the Roads Planning Service have now considered the proposals and I am awaiting a formal response from the Roads Authority but, in principle, the proposed choice of access and site layout/ land use change can now be accepted.

In planning policy terms, the proposals are to be considered by Local Development Plan 2016 Policy PMD3 and (as an allocated employment site) Policy ED1. NPF4 identifies Policy 26; "Development proposals for business and industry uses on sites allocated for those uses in the LDP will be supported. " The determining issue is therefore whether the application complies with the following criteria of ED1;

1. respect the character and amenity of the surrounding area, and be landscaped accordingly, and
2. be compatible with neighbouring business and industrial uses

The secondary polices of NPF4 regarding Sustainable Transport (Policy 13) and Design quality and place (Policy 14) are to be considered in parallel. These themes are articulated by Polices PMD1 and PMD2 of the LDP 2016.

I have assessed the proposals and considered the representation from the Community Council. I identify the following changes to be made;

1. Please provide a landscaping detail to the northern boundary in accordance with the requirements identified in the Local Development Plan.
2. Please remove the proposals for a cabin/ office. If you require welfare facilities these should be in a permanent building on-site. A portacabin would not be supported on design grounds as this temporary building would not comply with either LDP 2016 or NPF4 policies.
3. Please remove the flood light proposals. Flood lighting will not be supported in this rural location. Any requirement for lighting will need to be in accordance with a designed lighting scheme.
4. Please alter the gate location to ensure these are set back 6m from the edge of the carriageway.
5. Please provide proposed details of boundary treatments enclosing the site from the road – I suggest this fence line is set behind the hedge by 1-2m to ensure protection of the hedge boles during any construction period..
6. Please provide a pavement detail between the site and the village.

The Roads Planning Officer will provide a recommendation in the coming days on the precise details of bellmouth/ visibility and gradients and these requirements would be conditions of any future approval, in the interests of road safety. There remain a requirement for a pavement to be provided (linking back to the settlement) and this arises due to NPF4, Policy 13 b.) below.

In the meantime I must ask that you make the changes identified above and allow time for public re-consultation. Please get in touch if you have any questions.
Many thanks

| | | |
|----|---------------------------|--|
| 14 | Design, quality and place | <p>a) Development proposals will be designed to improve the quality of an area whether scale.</p> <p>b) Development proposals will be supported where they are consistent with the six qualities of successful places:</p> <p>Healthy: Supporting the prioritisation of women’s safety and improving physical and mental health.</p> <p>Pleasant: Supporting attractive natural and built spaces.</p> <p>Connected: Supporting well connected networks that make moving around easy and reduce car dependency.</p> <p>Distinctive: Supporting attention to detail of local architectural styles and natural landscape into designs to reinforce identity.</p> <p>Sustainable: Supporting the efficient use of resources that will allow people to live, play, work, and learn in resilient, and integrating nature positive, biodiversity solutions.</p> <p>Adaptable: Supporting commitment to investing in the long-term value of buildings, spaces and places that they can be changed quickly to accommodate different uses as well as maintaining their character.</p> <p>Further details on delivering the six qualities of successful places are set out in Annex 1.</p> <p>c) Development proposals that are poorly designed, detrimental to the amenity of the area, or do not support the six qualities of successful places, will not be supported.</p> |
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| 13 | Sustainable transport | <p>a) Proposals to improve, enhance or provide active travel infrastructure, public transport and cycle infrastructure will be supported. This includes proposals:</p> <ol style="list-style-type: none"> i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially in village centres ii. which support a mode shift of freight from road to more sustainable modes, including rail and water |
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| | | <p>iii. that build in resilience to the effects of climate change and where appropriate incorporate nature rich habitats (such as natural planting or water systems).</p> <p>b) Development proposals will be supported where it can be demonstrated that the transport is considered in line with the sustainable travel and investment hierarchies and where appropriate:</p> <ol style="list-style-type: none"> i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling; ii. Will be accessible by public transport, ideally supporting the use of existing services; iii. Integrate transport modes; iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations to meet the standards; v. Supply safe, secure and convenient cycle parking to meet the needs of users and where appropriate provide parking; vi. Are designed to incorporate safety measures including safe crossings for walking and cycling and safe crossings of vehicles; vii. Have taken into account, at the earliest stage of design, the transport needs of diverse users and their characteristics to ensure the safety, ease and needs of all users; and viii. Adequately mitigate any impact on local public access routes. <p>c) Where a development proposal will generate a significant increase in the number of vehicles required to be undertaken in accordance with the relevant guidance.</p> <p>d) Development proposals for significant travel generating uses will not be supported where they require the private car, taking into account the specific characteristics of the area.</p> <p>e) Development proposals which are ambitious in terms of low/no car parking will be supported where they are well-served by sustainable transport modes and where they do not create barriers to access.</p> <p>f) Development proposals for significant travel generating uses, or smaller-scale developments, which result in travel patterns resulting from the development, will only be supported if they are accompanied by appropriate conditions/obligations. Travel plans should set out clear arrangements for delivering a sustainable travel plan evaluation.</p> <p>g) Development proposals that have the potential to affect the operation and safety of trunk roads will be assessed to determine their impact. Where it has been demonstrated that existing infrastructure cannot accommodate a development without adverse impacts on safety or unacceptable impacts, development will only be supported where mitigation measures required to ensure the continued safe and effective operation of the trunk road are provided. While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered where significant economic or regeneration benefits can be demonstrated. New junctions will be supported in accordance with relevant guidance and where there will be no adverse impact on road safety.</p> |
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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 accord 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.

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The Council aims to maintain a supply of business and industrial land allocations in the Scottish Borders (see Table 1). There is 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.

1. Strategic Sites

The Council rigorously protects strategic business and industrial sites for employment uses.

a) Strategic

High Amenity Sites

Development on Strategic High Amenity Sites will be predominantly for Class 4 use. Other complementary commercial activity e.g. offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location.

b) Strategic Business and Industrial Sites

Development for uses other than Classes 4, 5 and 6 on strategic business and industrial sites in the locations identified in Table 1 will generally be refused. Uses other than Class 4, 5 or 6 can be considered if clearly demonstrated as contributing to the efficient functioning of the allocated site.

2. District Sites

Although District sites do not merit the same level of stringent protection as Strategic sites there remains a preference to retain these within employment uses.

However, development other than Classes 4, 5 and 6 may be accepted on district business and industrial sites identified in Table 1 in order to, where appropriate, allow a more mixed use area.

Proposals for development outwith Class 4, 5 and 6 will be considered against the following criteria:

- a) the loss of business and industrial land does not prejudice the existing and predicted long term requirements for industrial and business land in the locality, and

- b) the alternative land use is considered to offer significant benefits to the surrounding area and community that outweigh the need to retain the site in business and industrial use, and
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Although Local sites are allocated for business and industrial use, these are considered to have a lower priority and need for retention in the hierarchy of all business and industrial sites. Consequently alternative uses are likely to be supported.

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In all business and industrial land site categories development must:

- a) respect the character and amenity of the surrounding area, and be landscaped accordingly, and
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Shops and outright retail activities will not be allowed on Strategic or District sites. The only retailing permissible on these sites will be that which is considered to be ancillary to some other acceptable activity (e.g. manufacture; wholesale). For the purposes of this policy, ancillary is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area.

Euan Calvert

Assistant Planning Officer (Development Management)
Planning, Housing & Related Services

Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA

Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>

Sent: 11 July 2023 14:54

To: Calvert, Euan <ECalvert@scotborders.gov.uk>

Subject: Morebattle site

CAUTION: External Email

Hi Euan

Any update on our Morebattle lorry park application?

Kind regards

Jenni

Jenni Douglas, MRICS FAAV

Director

Direct Dial: 01361 310 286

Office: 01573 224 381

Mob: 07920 479 094



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From: [Jenni Douglas](#)
To: [Payne, Mark](#)
Cc: ecalvert@scotborders.gov.uk
Subject: 23/00553/FUL James Y Burn Haulage
Date: 17 July 2023 14:32:00
Attachments: [3805070.pdf](#)

Response to comments 11 July 2023

Good afternoon Mark,

I am writing to you further to your comments made to Euan Calvert on 11th July 2023 in regard to our client's application to develop a lorry yard to the east of Croft Park Industrial Estate, Morebattle.

Firstly thank you for agreeing that the entrance is in the best location and spec etc for the proposed use, we agree this is the best location for visibility etc and keeps traffic away from the village.

Our area of concern is the requirement for a footpath. When we met on site the morning after your initial consultation was published, we explained to yourself and your colleague the nature and small scale of the business, up to 6 lorries leaving a Monday often not returning until a Friday night moving livestock around the country, and in between the site is locked up securely. If they can afford in the future, they may erect a livestock shed to offer 'bed and breakfast' to meet animal welfare standards enabling them to transfer livestock longer distances, stopping over briefly. As stated in my response and reiterated today, none of the members of staff reside in Morebattle, with the current site near Kelso on a remote farm, all staff travel by car and will continue to travel by car. The business used to be located in the centre of the village with staff commuting in and lorries leaving, and locals didn't like it hence they left the village to their current location. When we discussed all of this on site, it was agreed, albeit verbally, that a footpath from the village would therefore be 'overkill'. I understand the rational of encouraging active travel however in such a remote location, with no staff living locally, this cannot be achieved here.

Furthermore, the business must make sure its vehicles are stored securely, and livestock if ever housed there, are also secure, so do not want members of the public walking down unnecessarily.

Surely if connectivity was the vision for this proposed industrial site, there wouldn't be a gap proposed by SBC to keep the area separate from the village. To keep it outwith the village but then ask for us to connect it, when it has no requirement for public, simply is a contradiction and a requirement that we must strongly challenge.

The landowner who owns our site, as I stated in my response in May, owns the entire field between the village and the site, and we can ask if they would agree to an area being fenced from the village on the inner side of the hedge as a footpath down to the site if deemed essential, however a formal footpath, I presume on the roadside, cannot be justified. Similarly if it were to be street-lit, then the whole project is unviable and will likely not be developed as there is no need for the applicant, and the cost involved compared to the type and scale of business simply trying to store its lorries, is uneconomical.

Just to clarify also you mentioned the shed and portacabin strengthened the case for connectivity, however the portacabin was just to provide a toilet facility for workers which the planner will not permit, and the shed is to occasionally house livestock, again no requirement to connect to the village for this.

I would be very grateful if you can reconsider this requirement, by all means give me a call to discuss. I am on annual leave from this Thursday evening for 2.5 weeks however. I therefore haven't yet asked for a footpath to be drawn up, so would be grateful for a quick response. We do plan to challenge it regardless, but if you are to insist for now, I need to know the spec of footpath you require, and where you wish it to run to and from, and which side of the fence, so that we can instruct these drawings.

Yours sincerely

Jenni Douglas

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094



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From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Friday, July 14, 2023 9:32 AM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: RE: [OFFICIAL] RE: Morebattle site

Good morning Jenny
23/00553/FUL

I attach the Roads Planning response which requires item 6. Below.

Please make all those changes identified. We have publicly consulted on the proposals now that the Roads Authority have tentatively accepted the location and principle of a new access, subject to visibility splays of 2.4x160. I refer to their previous response 12 May and your site meeting 16 May.

The public consultation runs until 10 Aug and, subject to the changes being made and no objections being raised, we will proceed to determination.

Please call this morning if you would like to discuss any of those points below.

Euan Calvert
 Assistant Planning Officer (Development Management)
 Planning, Housing & Related Services
 Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
 Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Friday, July 14, 2023 7:54 AM
To: Calvert, Euan <ECalvert@scotborders.gov.uk> [REDACTED]
Subject: Re: [OFFICIAL] RE: Morebattle site

CAUTION: External Email

Hi euan,

I'm due to go on annual leave next Thursday and need to make sure you're not needing anything more from me by then, however I could do with a response to my email of Tuesday.

If we can get a decision quicker we will remove the shed from the plan, but before I ask the architect to make the other cha fee requested I need to know this so as not to incur two lots of charges for changes?

Furthermore we need to know if SBC although unfair, will insist on the footpath and street lights to a private car park for non residents as this may result in us not proceeding any further. Alternatively, it will be challenged in due course.

I hope to hear from you on these matters today so we have time next week if necessary to get the other information to you and amended etc.

I would also like to know what SBC would like for lighting, all detailed in my previous email.

Regards

Jenni

From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Tuesday, July 11, 2023 5:54:55 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: [OFFICIAL] RE: Morebattle site

Good afternoon Jenni
 23/00553/FUL

I have adjusted the title of the proposal to include "erection of building" and we will re-advertise/ re neighbour notify now. This must be undertaken to allow public consultation on the amended plans on file 12 June. This is a 15-day period. Both Forward Plans and the Roads Planning Service have now considered the proposals and I am awaiting a formal response from the Roads Authority but, in principle, the proposed choice of access and site layout/ land use change can now be accepted.

In planning policy terms, the proposals are to be considered by Local Development Plan 2016 Policy PMD3 and (as an allocated employment site) Policy ED1. NPF4 identifies Policy 26; "Development proposals for business and industry uses on sites allocated for those uses in the LDP will be supported." The determining issue is therefore whether the application complies with the following criteria of ED1;

1. respect the character and amenity of the surrounding area, and be landscaped accordingly, and
2. be compatible with neighbouring business and industrial uses

The secondary policies of NPF4 regarding Sustainable Transport (Policy 13) and Design quality and place (Policy 14) are to be considered in parallel. These themes are articulated by Policies PMD1 and PMD2 of the LDP 2016.

I have assessed the proposals and considered the representation from the Community Council. I identify the following changes to be made;

1. Please provide a landscaping detail to the northern boundary in accordance with the requirements identified in the Local Development Plan.
2. Please remove the proposals for a cabin/ office. If you require welfare facilities these should be in a permanent building on-site. A portacabin would not be supported on design grounds as this temporary building would not comply with either LDP 2016 or NPF4 policies.
3. Please remove the flood light proposals. Flood lighting will not be supported in this rural location. Any requirement for lighting will need to be in accordance with a designed lighting scheme.
4. Please alter the gate location to ensure these are set back 6m from the edge of the carriageway.
5. Please provide proposed details of boundary treatments enclosing the site from the road – I suggest this fence line is set behind the hedge by 1-2m to ensure protection of the hedge boles during any construction period..
6. Please provide a pavement detail between the site and the village.

The Roads Planning Officer will provide a recommendation in the coming days on the precise details of bellmouth/ visibility and gradients and these requirements would be conditions of any future approval, in the interests of road safety. There remain a requirement for a pavement to be provided (linking back to the settlement) and this arises due to NPF4, Policy 13 b.) below.

In the meantime I must ask that you make the changes identified above and allow time for public re-consultation.

Please get in touch if you have any questions.

Many thanks

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| <p>Policy PMD3: Land Use Allocations</p> <p>Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps.</p> <p>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.</p> <p>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.</p> <p>Within new housing allocations other subsidiary uses may be appropriate provided these can be accommodated in accord 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.</p> <p>Any other use on allocated sites will be refused unless the developer can demonstrate that:</p> <ul style="list-style-type: none"> 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 |
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Euan Calvert

Assistant Planning Officer (Development Management)
Planning, Housing & Related Services

Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 / ecalvert@scotborders.gov.uk

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Subject: Morebattle site

CAUTION: External Email

Hi Euan

Any update on our Morebattle lorry park application?

Kind regards

Jenni

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094

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**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

| | | | |
|---|---|--|---|
| Comments provided by | Roads Planning Service | | |
| Officer Name, Post and Contact Details | Mark Payne Roads Planning Officer | | mark.payne@scotborders.gov.uk 01835 825018 |
| Date of reply | 11 th July 2023 | Consultee reference: | |
| Planning Application Reference | 23/00553/FUL | Case Officer: Euan Calvert | |
| Applicant | James Y Burn Haulage | | |
| Agent | FBR Seed Ltd | | |
| Proposed Development | Change of use from agricultural land to lorry storage yard | | |
| Site Location | Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders | | |
| <i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i> | | | |
| Background and Site description | This is a re consultation based on amended drawings | | |
| Key Issues (Bullet points) | Access Traffic Pedestrian links | | |
| Assessment | <p>Further to my previous comments, I accept that this site cannot be reasonably accessed via the existing industrial estate, therefore a new access onto the B class road would be permitted. Visibility at the proposed new access should be sufficient to provide 2.4m x 160m in both directions, as supported by the supplied visibility splays.</p> <p>However, it is my belief that an extension of the pedestrian route from Morebattle will be required. Policy has changed since the construction of the original industrial estate, with Designing Streets and NPF4 placing greater emphasis on active travel and connectivity.</p> <p>I also note that the scope of the proposal has changed to incorporate sheds and a portacabin / office and it is no longer solely a hard standing and parking area. As such, there should be a method for staff to safely walk into Morebattle should they wish it and further information should be provided in this regard.</p> <p>It should be noted that there may also be a requirement for street lighting over this section of proposed footway.</p> | | |
| Recommendation | <input type="checkbox"/> Object | <input type="checkbox"/> Do not object | <input type="checkbox"/> Do not object, subject to conditions |
| | <input checked="" type="checkbox"/> Further information required | | |
| Recommended Conditions | | | |

| | |
|-------------------------------------|--|
| Recommended Informatives | |
|-------------------------------------|--|

Signed: DJI