

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4 DECEMBER 2023

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/00657/FUL

OFFICER: Euan Calvert
WARD: Jedburgh and District
PROPOSAL: Formation of accesses and change of use of land to storage (part retrospective)
SITE: Land Southeast of Mounthooly House, Jedburgh
APPLICANT: Ramsay Mounthooly Ltd
AGENT: Lothian Estates

SITE DESCRIPTION:

The application site relates to a small grass field located south of Mounthooly Farm. The field is bounded to the south by the A698 which sits on a slight embankment. Mounthooly House is located to the west and Mounthooly Cottages to the east. The field and farm are accessed by an adopted road junction adjacent to the site. The application site is slightly concave and is laid to grass. There are several other residential properties, as well as the Caddyman Restaurant located east and north-east of the application site. The field is bounded by agricultural stock fencing. The application site is identified as being an area of prime quality agricultural land.

PROPOSED DEVELOPMENT:

Planning permission is sought for change of use of land to storage and formation of accesses. Changes have been made to the proposals following submission of the application and only one access is now proposed. One vehicular access would be taken from the private road serving the Farm. A topographic survey and sections have been provided which show proposals to surface a yard area (roughly the eastern half of the field) in type-1 crushed stone. A 5-metre strip of landscape planting would be created on the east and south boundaries of the site. A detailed plan showing a hedgerow (west – south and east boundaries) has now been provided. The proposal for an east road junction has been removed to accommodate this landscape strip.

PLANNING HISTORY:

The following planning history is relevant to this application, although not all previous planning decisions relate to the current application site.

13/01081/FUL	Erection of dwellinghouse – Approved
13/01082/FUL	Erection of dwellinghouse – Approved
18/00748/FUL	Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years- Refused

18/00749/FUL	Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years- Refused
20/00010/RREF	Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years - Refused
20/00011/RREF	Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years - Refused
22/01282/FUL	Erection of workshop/store shed - Approved.
23/00058/UNDEV	Enforcement Enquiry – unauthorised development
23/00682/AGN	Formation of agricultural storage area from field and new access – Application returned

REPRESENTATION SUMMARY:

A total of seventeen letters of representation comprising fifteen objections and two general comments, have been received by the Planning Authority. The key material planning considerations raised are summarised below:

- The density of site is detrimental to residential amenity.
- The development is out with the natural boundary of the farm buildings / steading.
- Mounthooly has turned in to a busy industrial estate out of keeping with the character of the area.
- The farm steading has changed from agriculture use to a machinery storage and maintenance facility.
- Concern for the scale, character, and appearance of the proposed development/ buildings.
- The impact the proposed development would have on the visual appearance of the area. Preference for the area to become a wildlife area.
- The location of the new junction and impact this would have upon road safety.
- Additional traffic created by the proposed development.
- The loss of wildflower meadow, including trees, and the visual impact this has had on the visual appearance.
- Detrimental effect on business and well-being and safety of residents of Mounthooly.
- Existing noise and light pollution.
- Loss of this natural soakaway presents flood risk concerns.
- Concerns for land raising and corresponding increased flood risk/ flooding of homes and businesses.
- Pedestrian safety.
- Lack of drainage.
- Inadequate screening.
- Road safety/ horse hazard.
- Creeping industrialisation.
- Contrary to PMD4: Development out with Development Boundaries
- Proposal is contrary to Policy 9 of NPF4 which promotes brownfield development over greenfield site development.
- Proposal is contrary to Policy 26 Business and industry of NPF4 a – e.
- Designated industrial sites in the local area would be more suitable for this proposed industrial use. The proposed application is not in-keeping with the surrounding area and is not agricultural related.

- Contrary to LDP Policy ED10 and Policy 5 of NPF4 concerning Protection of Prime Quality Agricultural Land
- Lack of information within the submission as to the intended operating arrangements. Proposals should be advertised as “Bad Neighbour” development. (Schedule 3 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 5: Soils

Policy 6: Forestry, woodland, and trees

Policy 14: Design, quality, and place

Policy 22: Flood Risk and Water Management

Policy 26: Business and industry

Scottish Borders Council Local Development Plan 2016

Policy PMD2: Quality Standards

Policy ED7: Business, Tourism and Leisure Development in the Countryside

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

Policy HD3: Protection of Residential Amenity

Policy EP13: Trees, Woodlands, and Hedgerows

Policy IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

Scottish Borders Supplementary Planning Guidance:

Trees and Development (2020)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Further information required on use and frequency of use.

Second response: No objections to revised proposals.

Flood Engineer: Site is at risk from a flood event with a return period of 1 in 200 years. The proposed use of the area is considered as a “least vulnerable use” in terms of SEPA’s Land Use Vulnerability Guidance. No objection subject to conditions to ensure no land raising takes place and no structures or buildings are erected.

Crailing Eckford and Nisbet Community Council:

- All neighbours are against proposal as it conflicts with amenity of residential and business neighbours.
- Unapproved activity appears to have been taking place apparently unchallenged.
- Flood lighting and hours of operation causing concerns presently.
- Road safety with A698

If approval is granted planning conditions should be applied to mitigate the matters that are a challenge to residential neighbours.

KEY PLANNING ISSUES:

The key planning issues under consideration for the assessment of this application are the principle of the development, any visual and amenity impacts on the immediate area, and the impact the proposed development may have on flooding and road safety.

ASSESSMENT OF APPLICATION:

Principle

In order to establish the principle of development the application must be assessed against NPF4 Policy 26 – Business and Industry and LDP Policy ED7 – Business Tourism and Leisure Development in the Countryside. Policy 26 (d) states that “Development proposals for business, general industrial and storage and distribution uses outwith areas identified for those uses in the LDP will only be supported where:

- i. It is demonstrated that there are no suitable alternatives allocated in the LDP or identified in the employment land audit; and
- ii. The nature and scale of the activity will be compatible with the surrounding area.”

In terms of the Local Development Plan, Policy ED7 identifies opportunities for business development in the countryside. A careful balance however needs to be struck between the needs of expanding an existing (and established) business and the potential impacts on the countryside. The site is not within an allocated Industrial Estate. The site is near to Jedburgh but not within the settlement boundary as defined in the Local Development Plan.

A fundamental requirement of Policy ED7 is 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 that would be suitable for the intended use.

The extant use (historical and current use) at Mounthooly Farm has been for processing and storing potatoes, over and above historic farming practices. The adjacent storage buildings (approved under 98/01133/FUL – erection of a potato store and 98/01134/FUL – erection of a storage building) were permitted but not restricted to agricultural use. There is also an office of Premium Potatoes in the courtyard of the farm buildings. It must be identified that this is now a mixed-use site comprising business and storage uses. Uses other than agricultural have previously been accepted as being appropriate at this location. No planning condition or legal agreement was applied therefore it is considered that these buildings can legally be used for class 6 storage and distribution. There have been objections to the use of the wider site for uses that not agriculture. Members should be aware that there is a recent approval for a further shed in the courtyard located to the north of the site (22/01282/FUL), and the proposed storage area would compensate for that loss of hardstanding.

Members will note from the planning history section above that the applicant has previously submitted a Prior Notification application for this field (23/00682/AGN) for the creation of additional storage/ yard space. However, the application did not meet the criteria defined by Class 18 of the general permitted development order and the applicant was not able to exercise his permitted development rights.

The land area related to this farm holding (Mounthooly Farm Steading) does not exceed 0.4 hectares and is therefore too small to exercise permitted agricultural rights under Class 18.

Members should also be aware of the provisions of Class 18C of the GDPO now allows for the submission of prior notification applications for a change of use of an agricultural building and any land within its curtilage to a flexible commercial use. There are a host of limitations and conditions for those wishing to exercise permitted development rights under Class 18C, but Members must be aware that the GDPO does allow agricultural buildings to become a "flexible commercial use" through permitted rights in the future. The extent of this permitted development includes class 1A (shops and financial, professional, and other services), class 3 (food and drink), class 4 (business), class 6 (storage or distribution), class 10 (non-residential institutions).

It is acknowledged that there may be suitable industrial sites within Jedburgh for Class 6 storage use, but it would be unreasonable for the Planning Authority to object to expansion of an existing (and established) use on this particular site, particularly if this proposal is policy compliant. Firstly, the GDPO now allows a wider range of uses on agricultural holdings. Secondly, the nature and scale of the activity in this application will be similar to the existing operations and therefore suitable for the chosen site. The uses proposed are primarily for agriculture storage but not limited, although this can be restricted or linked to the existing planning unit by way of condition.

The Agent has clarified that the proposals will be used by tractors, trailers, forklifts, and agricultural and forestry equipment, all of which are already operating at this location. These proposals are related to the use and operation of the farm as a single planning unit.

It is contended that this further storage area can be substantiated at this site. It would be unreasonable for the Planning Authority to require an existing agricultural and storage operation to be accommodated within the Development Boundary of Jedburgh for example. The applicant's business is based at this location and although the use goes beyond just solely agricultural use, this was accepted in 1998 by the earlier grant of planning permission for the storage shed. The expansion of hardstanding to accommodate further storage is compatible with the adjacent buildings and the surrounding area.

The proposals are now considered to be in accordance with Policy ED7 of the LDP and "the Council is satisfied that there is an economic and/or operational need for the particular countryside location". Expansion of this operation can be accepted on this site, provided it does not prejudice the amenity of neighbours or character of the surrounding area. Objections from third parties and neighbours are discussed below.

Layout, design, and materials

The proposed layout and construction makeup of the site has now been demonstrated on proposed plans and sections and it is considered that the proposals will not harm the visual amenities of the area. A robust landscape strip and boundary hedge is shown on amended drawings between the site and residential neighbours. The development will be in-keeping with the rural character of the area. Hardstanding surrounded by landscape planting is appropriate in appearance for this area and will assimilate well in time. The visual impact on the immediate area is considered to be acceptable. No security fencing and no lighting is proposed therefore the scheme will not appear suburban or industrial in character. The scale and design of the proposed development can therefore be accepted.

The Council's Flood Engineer has considered the proposals as the site is at risk from a flood event with a return period of 1 in 200 years and has raised no objections in principle. NPF4 Policy 22 identifies the Planning Authority's approach to flooding and

Policy IS8 of LDP encourages development to be located away from areas free from significant flood risk.

Storage use on permeable hardstanding is considered as a “least vulnerable use” in terms of SEPA’s Land Use Vulnerability Guidance. In this instance, provided there is no land raising and no buildings or structures placed on the site, the use change can therefore be accepted. Objections to the proposals from third parties on the grounds of flood risk have been considered but the response of the Flood Engineer confirms that the use change should not affect the function of the site as a functional flood plain therefore should not increase flood risk for others. Conditions can be applied to manage site levels and to prevent buildings and structures being erected without planning approval. Only porous surfaces can be allowed. These conditions ensure that the proposal is in accordance with NPF4 Policy 22 and LDP Policy IS8 in so much as there will not be a reduction in floodplain capacity arising from the proposed surfacing and will not materially increase the probability of flooding elsewhere.

The proposed planting will help to soften the development over time by screening the site from the residential receptors, the public road and nearby restaurant. A condition is proposed which will require further full details of soft landscaping and a programme for completion and subsequent maintenance.

The proposed landscaping will ensure that the development does not appear overly conspicuous and can be accepted in this location. Consequently, it is considered that the proposal would not have a significant adverse impact on the visual amenities of the area.

Residential amenity

The proposed development would not unduly impact upon the residential amenity or nearby properties in respect of daylight or sunlight. Potential overshadowing, noise, generation of traffic and flood lighting are not considered to be determinant factors to this application. Objections of the neighbours are acknowledged. These relate (but are not limited) to complaints about nuisance from existing operations including light, noise, and hours of operation.

Concerns have been raised regarding the impact the proposed development would have on residential amenity, particularly noise. It is not expected that the expansion of storage on this site would give rise to increasingly unacceptable levels of noise or nuisance, and it is considered that restrictions on the storage is not necessary to satisfy residential amenity concerns. This is an extant mixed use industrial and agricultural site. It is acknowledged that additional residential dwellings have been developed to the north and east of Mounthooly Cottages, however the expansion of residential use has been around an established industrial/agricultural use.

Objectors consider that the scale, form, and type of development no longer fits the site and state that this area is now predominantly residential in character. It is acknowledged that there are a number of residential units within this group of buildings, but the proposed use would not be incompatible with the existing land use pattern or the residential amenity of neighbouring properties.

It is accepted that there may be a degree of noise arising from the extant operation, but it is felt that the proposals will not compound this to the detriment of residential amenity. The choice of site, layout and scale of proposals will not result in further adverse impacts. The adopted access road provides a suitable level of offset and separation from the surrounding residential units. Furthermore, the Agent has now

made attempts to address any visual concerns by introducing a landscape strip and boundary hedge to function as a visual buffer. This can be covered by condition and will provide a robust landscape boundary between the site and neighbouring dwellings.

Roads and Access

Access will now be taken from the existing private road located north of the site. The Roads Planning Officer now supports the amendments as this removes proposals for improving an existing access to the adopted road junction.

Concerns have been raised regarding frequency of movements, size of vehicles and road safety at this junction. It is not expected that the proposal would generate significantly more traffic than the current arrangements and the Roads Planning Officer notes that the junction with the A698 offers good visibility and adequate forward visibility of vehicles travelling on the A698.

Roads Planning Service do not raise any road safety concerns therefore the layout will not have a detrimental impact upon road safety. There are no requirements for conditions on construction of the entrance as this is a private road at this point.

Impact on built heritage

Despite the character of several residential buildings in the surroundings, none are listed for their architectural or historic merits. Considering the scale and design of the proposals no adverse impacts upon the setting of neighbouring buildings are identified.

Impact on natural heritage

This has historically been an improved grass field used for grazing livestock. Surfacing and landscape proposals are considered acceptable and will have neutral impacts on local biodiversity. The site is unlikely to be habitat for any protected species therefore the proposals can be accepted in accordance with NPF4 Policy 3 and LDP Policy EP3, concerning biodiversity. The need for post construction biodiversity enhancements is not considered appropriate in this case, given the existing use of the site. Furthermore, additional hedgerow tree planting is proposed (and covered by condition) that will, in time provide additional, and improved local biodiversity enhancement.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land, however given the marginal size and present use it is not considered that the proposal will result in any meaningful loss of prime quality agricultural land.

Other objections

Comments of the Community Council are acknowledged. Other objections regarding planning enforcement of the current operation are not material considerations of this application. Concerns of nuisance for noise and hours of operation arising from the current operation are acknowledged but in order to avoid duplication of resources, these matters are best considered by the Council's Environmental Health service who are better placed to investigate these claims. In any event it is not considered that these issues will be exacerbated by the proposed hardstanding and storage of potato boxes and agricultural machinery.

CONCLUSION

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.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions and informatives:

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. The storage area hereby approved to be used for Agriculture or Class 6 (Storage and Distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or in any provision equivalent to these Classes in any statutory instrument revoking and re-enacting that Order). ancillary to the use of Mounthooly Farm Steading as a single planning unit and shall not be let, subdivided, or severed from the ownership of Mounthooly Farm Steading.
Reason: To ensure compliance with the statutory development plan concerning business and general industrial whereby this use has been identified as being ancillary to the primary business function of the Farm and outwith the areas identified for those uses in the LDP.
4. No works or development in respect of this planning permission shall take place from the date of this Decision Notice until a detailed plan has first been submitted to, then approved in writing by the Council showing existing and proposed levels across the site to ensure there is no land raising across the site to the detriment of flood risk to others. Thereafter the agreed levels shall be adhered to.
Reason: To ensure the proposed development does not increase flood risk for others.
5. No buildings or other structures to be erected on site without prior approval from the Council.
Reason: To ensure there is no significant loss of functional flood plain within this flood risk area.
6. No surfaces other than porous surfaces are permitted without prior approval from the Council.
Reason: To ensure there is no significant loss of functional flood plain within this flood risk area.
7. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:

i indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration.

ii location of new trees, shrubs, hedges and grassed areas.

iii schedule of plants to comprise species, plant sizes and proposed numbers/density.

iv programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

DRAWING NUMBERS

Location Plan

A001 Proposed Site Plan

A002 Proposed Section and landscape

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

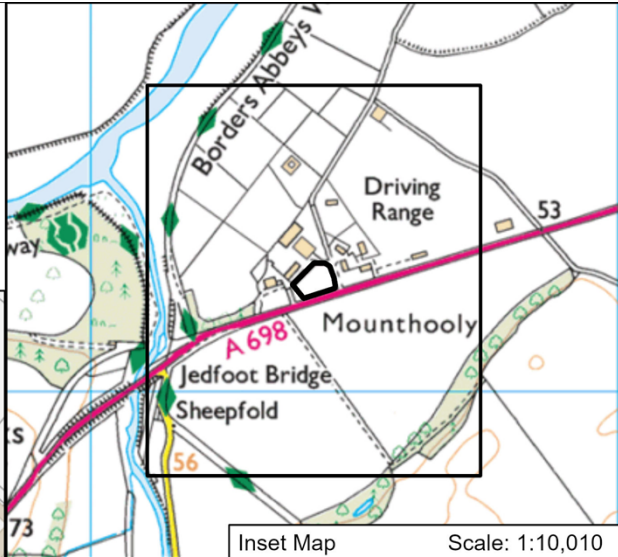
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

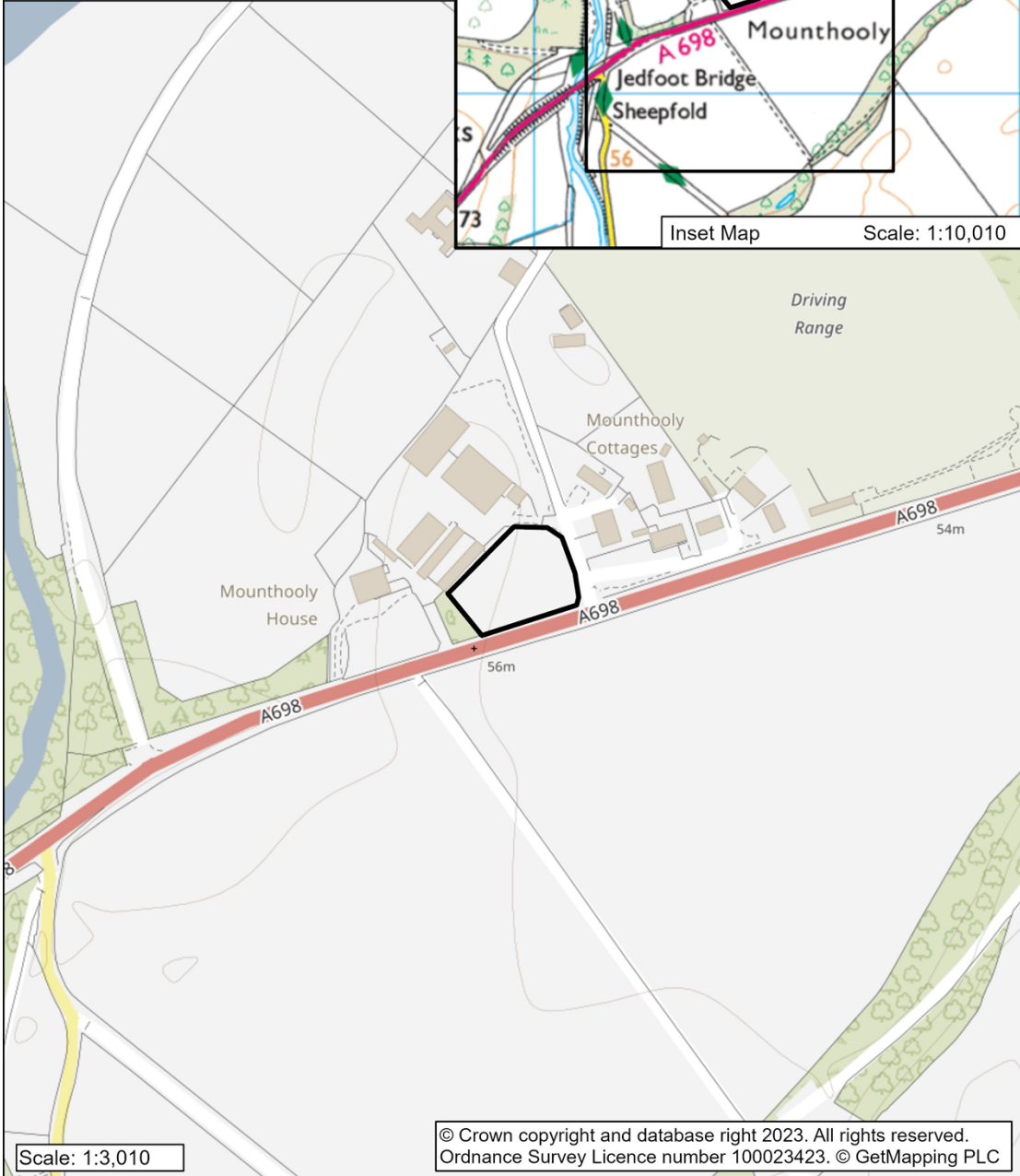
Name	Designation
Euan Calvert	Assistant Planning Officer



23/00657/FUL
Land South East Of Mounthooly House
Jedburgh



Inset Map Scale: 1:10,010



Scale: 1:3,010