

Report

Report to:	Planning Committee
Date of Meeting:	22 September 2020
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/19/0816
Planning proposal:	Change of use of land from agriculture to Class 6 (Storage or Distribution), installation of modular office building, erection of vehicle washing bay and creation of hardstanding area (in retrospect)

1 Summary application information

Application type:	Detailed planning application
Applicant:	JHP Transport Lanark LTD
Location:	Townhead Farm Ponfeigh Road Sandilands Lanark ML11 9UA

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Refuse planning permission for the reasons stated; and
- (2) Authorise Enforcement Action to be taken to require all operations to cease and the return of the site to an agricultural use.

2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.

3 Other information

- ◆ Applicant's Agent: David Graham
- ◆ Council Area/Ward: 04 Clydesdale South
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan**
Policy 1 Spatial Strategy
Policy 3 Green belt and rural area
Policy 4 Development management and placemaking
Policy 7 Employment
Policy 11: Economic Development and Regeneration
Policy 16: Travel and Transport

Supplementary Guidance

Green Belt and Rural Area
Development Management, Place Making and
Design

**Proposed South Lanarkshire Local
Development Plan 2**

Policy 1 Spatial Strategy

Policy 4 Green Belt and Rural Area

Policy 5 Development Management and
Placemaking

Policy 8 Employment

Policy GBRA1 Rural Design and Development

Policy GBRA2 Business Proposals within Green
Belt and Rural Area

◆ **Representation(s):**

▶	0	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

West of Scotland Archaeology Service

Environmental Services

Roads Flood Risk Management

Roads Development Management Team

SEPA West Region

Coal Authority Planning Local Authority Liaison Dept

Planning Application Report

1 Application Site

- 1.1 The application site relates to land at Townhead Farm located on the edge of the small settlement of Ponfeigh in the Douglas Valley. The village of Rigside is located approximately 500m to the south of the site on the opposite side of the A70. The application site previously formed part of a farm business that was purchased by the applicant in 2016 along with a small farm house with attached outbuilding and approximately 24 acres of arable land. The farm house and outbuilding are outwith the application site and form part of the original farm steading. The remainder of the traditional U shaped farm steading was converted into 5 residential units approximately 10 years ago; these properties are currently being rented out by a third party owner and, as a result, the applicant has no control over them. In addition to these 5 residential units, are a detached modern house sited directly opposite the site entrance and a small traditional cottage approximately 50m north east of the application site.
- 1.2 The application site is approximately 1.90 hectares in area. The site comprises 3 agricultural style, metal sheds, an area for refrigerated units, a vehicle wash bay including 1.8m high, timber screening fence, 2 storey, modular office block and an extensive area of gravelled/ hardstanding to provide lorry parking and staff parking. The site is relatively flat but does drop away steeply on the south and west boundaries resulting in the site being viewed as on a plateau from the west and south including the village of Rigside.
- 1.3 The application site is located on land designated as rural within the approved South Lanarkshire Local Development Plan 2015 (SLLDP).

2 Proposal(s)

- 2.1 The applicant has applied, in retrospect, for the change of use of the former agricultural yard to form storage and distribution yard. Other works that are the subject of the application are the formation of additional hardstanding, the installation of portable office buildings and formation of a wash bay area.
- 2.2 The site is accessed directly from the public road (Ponfeigh Road), utilising an access that was in place for the previous farm use. All vehicles enter and exit the site from this access. The proposals involve the operation of the site on a 24 hour basis 7 days a week. The applicant has advised the company currently employs 124 people (there are also 6 vacancies), 83 of whom live in South Lanarkshire. Whilst Class 6 Storage or Distribution does not specify any sub groups of distribution or storage, in this instance the operations include the transportation and storage of refrigerated food.
- 2.3 In support of their application, the applicant advises that, JHP Transport is Scotland's largest independent chilled food haulage operator. The relocated to the application because the yard had operated since 2008 as a licensed HGV Operating Centre. Some 8 years earlier, the yard had been formed by LAW Mining as a site compound for the offices, coal distribution centre, and as a base for the secure storage of the heavy earth moving machinery associated with the opencast mining operation at Townhead Farm. Over its period of operation, each year some 100,000 tonnes of coal and fireclay passed through the yard at Townhead Farm and was transported to markets via Ponfeigh Road. They have also highlighted other licensed HGV operations throughout the Council's area many without planning permission and therefore the alleged unauthorised nature of the use of land at Townhead Farm is by no means unique. Finally the company has continued operate throughout the Covid-19 pandemic to supply food across the country.

3 Background

3.1 National Policy

3.1.1 The Scottish Planning Policy (SPP) document (2014) states that the planning system should set out a vision for vibrant rural, coastal and island areas, with growing sustainable communities supported by new opportunities for employment and education. The planning system should:-

- In all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural and the challenges it faces;
- Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality;
- Promote economic activity and diversification including sustainable developments linked to for example tourism and farm diversification while ensuring the distinctive character of the area is protected and enhanced;
- Allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- Give due weight to net economic benefit of proposed developments.

3.1.2 The SPP also states that plans should align with relevant local economic strategies to help planning authorities to meet the needs and opportunities of indigenous firms and inward investors.

3.2 Development Plan

3.2.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, all applications must be determined, in accordance with the development plan, unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP), the adopted South Lanarkshire Local Development Plan 2015 (SLLDP) and associated Supplementary Guidance.

3.2.2 The proposed development requires to be considered against the Glasgow and Clyde Valley Strategic Development Plan 2017 (GCVSDP). This strategic plan sets a vision of making the GCVSDP region a resilient, sustainable, compact city region attracting and retaining investment and improving the quality of life for people and reducing inequalities through the creation of a place which maximises its economic, social and environmental assets and fulfils its potential by 2036. The GCVSDP is a strategic document and does not have specific policies related to the proposals. Therefore there is no further assessment of the application against the GCVDP within Section 6 below.

3.2.3 The South Lanarkshire Local Development Plan (SLLDP) was adopted in 29 June 2015 and contains the following policies against which the proposal should be assessed:-

- Policy 1: Spatial Strategy
- Policy 3: Green belt and rural areas
- Policy 4: Development management and placemaking
- Policy 5: Community infrastructure assessment
- Policy 7: Employment
- Policy 11: Economic Development and Regeneration
- Policy 16: Travel and Transport

3.2.4 The following approved Supplementary Guidance documents support the policies in the SLLDP and also require assessment:-

- Supplementary Guidance 2: Green Belt and Rural Area
- Supplementary Guidance 3: Development Management, Placemaking and Design

3.2.5 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). A number of amendments to policy have been recommended which will be carried through to adoption stage. For the purposes of determining planning applications the Council will assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters amendments. Whilst the Reporters amendments have yet to be ratified by the Council they are nevertheless a material consideration. In this instance, the following policies are relevant:

Volume 1

- ◆ Policy 1 Spatial Strategy
- ◆ Policy 4 Green Belt and Rural Area
- ◆ Policy 5 Development Management and Placemaking
- ◆ Policy 8 Employment
- ◆ Policy 15 Travel and Transport

Volume 2

- ◆ DM1 New Development Design
- ◆ GBRA1 Rural Design and Development
- ◆ GBRA2 Business Proposals within Green Belt and Rural Area

3.2.6 It should be noted that, LDP2 is only referenced should there be a specific conflict between a proposed policy and a policy within the approved SLLDP 2015.

3.3 Planning Background

3.3.1 The applicant is an established haulage business that was previously based in Shotts which relocated to this site in 2016 following the purchase of Townhead Farm. The applicant has stated that at the time of purchase and establishment of the change of use that they did not consider that planning permission was required as the land was previously used for storing agricultural vehicles and equipment. Whilst the site was used for the storage of agricultural machinery that also included an element of plant hire, this use related to an existing farm business and was, therefore, an ancillary operation associated with an established agricultural unit and is a significantly different use from that currently operating on site. The applicant did not seek advice from the Planning service regarding the status of the site nor in relation to locating a haulage business on the land prior to purchasing the site and establishing the haulage business there.

3.3.2 In October 2016, the service received a complaint about the use of the site by the applicants. At that point the company employed around 30 employees. The operator was advised that the proposals constituted a material change of use and that planning permission for the operations on site were required. Following this advice a planning application for the change of use of the site, formation of hardstanding and the installation of the modular office building was submitted in March 2017. This application did not include all the required information to allow validation. This

information was subsequently received and allowed the application to be validated only in September 2017 (Planning Ref: CL/17/0400). The application site extended to 1.65 hectares at this point.

- 3.3.3 A report on this original application was included on the agenda for the Planning Committee on 6 November 2018. It concluded that, the proposed use was not an acceptable permanent form of development for the site, due to the adverse impact on road safety and residential amenity. Overall, it was considered that the economic benefit in terms of local employment opportunities did not outweigh the adverse impact this development is having on its surroundings. The Committee report recommended that planning permission be granted for a temporary period of one year to allow the operator to explore suitable alternative sites. Following publication of this report, the applicant withdrew it prior to it being presented to the Committee.
- 3.3.4 Following the withdrawal of this application and due to the unauthorised nature of the development and the adverse effect its continuation would have on residential amenity and road safety an enforcement notice was subsequently served on 22 November 2018. The notice required the use of the site as a haulage yard to cease and for the associated wash bay and portable buildings used as office accommodation to be removed from site. Whilst the notice took effect on 24 December 2018 it did allow for a period of 12 months to comply. Following a further meeting with Council officers in November 2018 the notice was withdrawn after the operator gave an undertaking to address the outstanding concerns in a new application.
- 3.3.5 Following the withdrawal of the enforcement notice, the current application was submitted attempting to address the issues raised within the previous application. It should be noted that, as well as continuing to run the haulage operations from the site, without planning permission, the extent of the application site has been enlarged to 1.90 ha as the applicant, again without planning permission have been received, increasing the hardstanding area by a further 0.25 hectares and now with 140 employees.

4 Consultation(s)

- 4.1 **SEPA** – originally objected to the proposals on the grounds of lack of information in relation to the drainage of the site including ensuring surface water drainage wasn't contaminated with oils and washing chemicals. Following additional information regarding the drainage arrangements, including interception of potential contaminants, SEPA removed their objection and had no further comments to make in relation to the planning application other than providing the applicant with a reminder of other regulatory regimes they would need to adhere to outwith the planning system.
Response: Noted.
- 4.2 **West of Scotland Archaeology Service (WOSAS)** – note that the application is in retrospect and that this and the previous development relating to the farm would render the application site to be of little archaeological value. As such no archaeological investigation is proposed.
Response: Noted.
- 4.3 **The Coal Authority** – originally objected on the grounds of lack of information. Following the submission of a Coal Mining Risk Assessment the Coal Authority have withdrawn their objection and offer no further comments on the site.
Response: Noted.

4.4 **Roads and Transportation Services (Flood Risk Management)** – no objections to the proposals.

Response: Noted.

4.5 **Roads and Transportation Services (Development Management)** – A Transport Statement (TS) was undertaken which considered the volume of HGV traffic using Ponfeigh Road. The TS highlighted that there were on average 95 two way HGV vehicle movements to and from the site over a 24 hour period. It also confirmed there are sections of Ponfeigh Road that are not wide enough to accommodate two way traffic and proposals were submitted to demonstrate that the carriageway could be widened over these sections. The road widening details are satisfactory.

Ponfeigh Road is rural in nature and it is evident from site visits that its construction is not suitable for the current volume of HGV trips. With this in mind, Roads recommend that Ponfeigh Road be strengthened from the site access to the A70. Without these measures, the road will continue to deteriorate which will result in a considerable cost to the Council. In addition routine maintenance costs have been increasing on this stretch of carriageway since 2016 and reimbursement of those costs is being pursued separately.

The cost to strengthen and widen Ponfeigh Road which takes cognisance of the routine resurfacing costs that would be incurred should this remain a rural road with low traffic volumes has been estimated as follows;

- widening works £126,000,
- strengthening works £235,000
- routine cost to resurface (rather than reconstruct) £36,000.

Roads and Transportation Services would therefore recommend that the applicant contribute a sum of $£126,000 + 235,000 - £36,000 = £325,000$.

It should be noted that, due to the level of extraordinary damage caused by the applicant, Roads and Transportation Services are seeking costs from the applicant. To assist the applicant, it would be satisfactory to stagger the contribution over a 3 year period.

Should the applicant agree to the above, Roads and Transportation Services would have no objections to the retrospective planning application.

Response: - Noted. The detrimental impact of the HGV use of the public road is significant and the damage is easily evidenced when visiting the site. To date, the applicant has not agreed to the required financial contributions for the road strengthening works. Therefore, in its current state and without any agreement to strengthen the road, the road is unsuitable for this retrospective development and is therefore considered to be detrimental to Road Safety.

4.6 **Environmental Services**– A Noise Impact Assessment (NIA) was submitted by consultants appointed by the applicant as part of the planning submission. As part of their consideration of the previous planning application, Environmental Services had carried out a series of independent measurements at night time and observations made on how the site was operated. Movements within the external yard including manoeuvring and reversing beepers were not considered particularly intrusive. However, noise from vehicles passing nearby housing was found to be above the recommended level that would prevent sleep disturbance even with windows closed.

It was therefore concluded that noise levels regularly breach BS 4142:2014 and BS 8233:2014 and World Health Organisation Guidelines. Environmental Services advised that activity between 0700 and 2300 is not a concern in terms of noise generation. However, noise intrusion as a result of vehicle movements and activities associated with the use of the site as a haulage yard would likely be beyond limits reasonably tolerable to residents within the vicinity of the site between 2300 and 0700 (night time).

The NIA submitted as part of this planning application concurred with Environmental Services that the noise levels at night time would be above tolerable levels as set out by the World Health Organisation. The NIA suggested that a weighted sound reduction could achieve tolerable levels. In this instance the sound reduction would be through the provision of improved glazing at the affected private dwelling houses.

The installation of strengthened glazing in the affected properties has been explored as a means of addressing the adverse effects. However the properties are not in the control of the applicant and therefore the use of a condition to ensure the windows are installed is not enforceable by the Council under planning legislation. There is, as a result, no guarantee the windows would be provided. In any event, the residents would still be unable to open their windows during warm weather.

Environmental Services therefore object to the proposals due to the high level of night time noise created by HGVs which is above tolerable limits and that no appropriate mitigation has been proposed to limit this night time noise.

Response: The comprehensive assessment of the impact of the proposed use on residential amenity clearly concludes that there would be a significant adverse impact for local residents as a result of activity during the night particularly due to vehicle movements to and from the site. This view is indeed reinforced by the outcome the applicants own NIA. This is a key consideration in determining the application and is discussed in more detail in section 6 of the report.

5 Representation(s)

- 5.1 Statutory Neighbour notification was carried out by the Council on 2 July 2019. The proposal was publicised as an application requiring advertisement due to the non-notification of neighbours, the nature and scale of development (Schedule 3) and development contrary to the development plan in the Lanark Gazette on 10 July 2019.
- 5.2 No representations have been made in relation to this application.

6 Assessment and Conclusions

- 6.1 The applicant seeks retrospective detailed planning permission for the change of use of an agricultural yard to form a storage and distribution yard together with the formation of additional hardstanding, the installation of portable office buildings and formation of a wash bay area at Townhead Farm near Ponfeigh. The determining matters which need to be taken into account in assessing this application are the proposal's compliance with national and local planning policy, as well as the transportation implications and impact on residential amenity.
- 6.2 Section 33 of the Town and Country Planning (Scotland) Act 1997 allows a Planning Authority, should they be minded, to grant planning permission to a development including development that has already been carried out (i.e. in retrospect). Therefore, the retrospective nature of this application does not prohibit the Council, as Planning Authority, to carry out a detailed assessment of the planning application as required

under Section 25 of the Town and Country Planning Act 1997. Due to the retrospective nature of the application, if it is unsuccessful the Council may be required to seek enforcement action to remedy the situation should an applicant not immediately cease operations.

- 6.3 On 17 August 2020, the Directorate for Planning and Environmental Appeals issued its report of the Examination of the proposed South Lanarkshire Local Development Plan 2 (LDP2). A number of amendments to policy have been recommended which will be carried through to adoption stage. For the purposes of determining planning applications the Council will assess proposals against the policies contained within the adopted South Lanarkshire Local Development Plan and those within the proposed South Lanarkshire Local Development Plan 2 alongside the Reporters amendments. Whilst the Reporters amendments have yet to be ratified by South Lanarkshire Council they are nevertheless a material consideration. It should be noted that LDP2 is only referenced should there be a specific conflict between a proposed policy and a policy within the approved SLLDP 2015.
- 6.4 Scottish Planning Policy (SPP) advises that the planning system is about where development should happen, where it should not and how it would interact with its surroundings. Proposals should, inter alia, take a positive approach to sustainable and high-quality development and make efficient use of land to deliver long-term benefits for the public whilst protecting and enhancing natural and cultural resources and the wider environment. SPP also emphasises the importance of the plan-led approach to development and that the planning system should, in all rural areas, promote a pattern of development that is appropriate to the character of that particular area, encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality. The plan led system should encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; promote economic activity and diversification including sustainable developments linked to for example tourism and farm diversification while ensuring the distinctive character of the area is protected and enhanced; allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area; and give due weight to net economic benefit of proposed developments.
- 6.5 In its 'Policy Principles', SPP also introduces 'a presumption in favour of development that contributes to sustainable development'. In support of this presumption, SPP states that the planning system should support economically, environmentally and social sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.' Further to this, SPP states that in regard to Development Management, this 'presumption in favour of sustainable development' does not change the statutory status of the development plan as the starting point for decision making and that where proposals that do not accord with the up-to-date development plans, the primacy of the plan is maintained and this SPP and the 'presumption in favour of development that contributes to sustainable development will be material considerations'.
- 6.6 In addressing this policy issue the adopted South Lanarkshire Local Development Plan has identified sufficient land for employment use in a range of locations to meet the needs of employment generation and businesses across the Council area. The application site is not located within a strategic economic location or in any of the allocated sites within South Lanarkshire. This includes the nearby Poniel Strategic Economic Investment Location which benefits from a planning permission for a wide

range of uses include storage and distribution. The application site is not located within an area as identified for Employment within the SLLDP. In addition, the application site is not in a sustainable location and relies exclusively on private transport links. The site involves the redevelopment of a farm yard which would lend some merit to the sustainability of the development but this would be negated by the extensive areas of new hardstanding and new buildings on site that were required for the business. Nevertheless, the business that is the subject of this application is an important local employer in an area that is subject to high unemployment and deprivation and this is a key material consideration in determining the application.

- 6.7 Turning to the adopted South Lanarkshire Local Development Plan, there are a number of policies which require to be taken into account. Policy 1 - Spatial Strategy sets out the Council's priorities in terms of development in South Lanarkshire and states that the Council will encourage sustainable economic growth and regeneration, protect and enhance the built and natural environment and move towards a low carbon economy. The site is located in a quiet rural location off a road network not suitable for the scale and frequency of traffic generated by the proposed development. The site is located some 4.5km from the closest major road network connection onto the M74 just south of Happenden Services on the B7078 while there are employment sites allocated in the adopted Local Development Plan along this section of the M74 strategically positioned to meet the requirements of sustainable economic growth for this type of development.
- 6.8 Policy 7 - Employment states that the Council will support sustainable economic growth and regeneration by encouraging the development of business in South Lanarkshire through the identification of employment land use areas. The Council in line with this policy has identified locations with a range and choice of employment uses across South Lanarkshire. There is an extensive choice of available sites more suitable for the proposed business within South Lanarkshire with one in particular at Poniel only being 6km from the application site and strategically located close to the M74. Policy 11: Economic Development and Regeneration supports development that maximise economic development and regeneration particularly through implementation of the policies in the plan and the proposals listed in Appendix 3 (in this case Strategic Economic Investment Locations which includes Poniel). Priority will be given to development proposals that deliver physical and community regeneration and positively contribute to the local economy. The application site is not listed in Appendix 3 nor is allocated for industrial or employment use and it therefore starts from a weak position in being considered whether it is suitable for development of this scale and nature. The proposals would not bring about physical community regeneration however the local economy does benefit due to the employment that has been generated.
- 6.9 Following on from the above in terms of land use the site is identified in the adopted Local Development Plan as lying within the Rural Area where Policy 3 - Green Belt and Rural Area applies. This policy states that the Green Belt and the rural area functions primarily for agriculture, forestry, recreation and other uses appropriate to the countryside. Guidance on appropriate uses in the rural area is contained in the Green Belt and Rural Area Supplementary Guidance (GBRASG). While this can include low impact business uses linked to agricultural activity or low amenity light industry it does not include storage and distribution uses of the scale of the proposal under consideration. Policy 3 then goes on to state that development which does not require to locate in the countryside will be expected to be accommodated within areas identified on the proposals map, other than in the following circumstances;

- i. Where it is demonstrated that there is a specific locational requirement and established need for a proposal.
- ii. The proposal involves the redevelopment of derelict or redundant land and buildings where significant environmental improvement can be shown.
- iii. The proposal is for conversion of traditional buildings and those of a local vernacular.
- iv. The proposal is for limited development within clearly identifiable infill, gap sites and existing building groups.
- v. The proposal is for extension of existing premises or uses providing it is of a suitable scale and design. Any new built form should be ancillary to the main use.

- 6.10 In this instance, it is considered that the planning submission has not demonstrated that there is a specific locational need to operate from this site, nor can the site be classified as derelict or redundant at the time the new use was implemented. The site, whilst unoccupied for a short period prior to being purchased by the applicant, is not considered to be derelict or redundant land and still had potential to form part of an agricultural unit or other agricultural related business. It is also considered that the scale of the works involved in creating and then subsequently expanding the haulage operations are of scale that are not in keeping with the surrounding area. The additional hardstanding, erection of sheds, modular office block and wash bay are considered to be out of scale with the original area of hardstanding that the operations occupied. This level of expansion and the development required to operate at the current level could not be considered to be sympathetic to the character of the site or surrounding area.
- 6.11 Overall, it is considered that there is a ready supply of suitable sites within the immediate area which would negate any argument regarding a lack of supply in relation to the current site and that it is therefore hard to demonstrate a proven need for this location. The applicant has stated that the alternative sites identified by the Council noted above are not readily accessible by public transport which may not allow employees to travel there. It is considered that due to the pattern of shifts over 24 hours at the current operations and the level of staff vehicle evidenced at the site, it is unlikely that the current site would be any easier to travel to by public transport. It is also not unusual for employers of the scale of the applicant to provide alternative transport from nearby settlements for their staff, although this has not been explored by the applicant.
- 6.12 It can therefore be concluded the proposed development does not accord with the spatial strategy set out in the adopted LDP nor with policy or supplementary guidance on development in the rural area. It also fails to fully meet the requirements on policy on employment and regeneration. The applicant's business does however employ over 100 people and therefore positively contributes to the local economy and this is a key issue in assessing the application. As noted earlier economic development is at the heart of SPP and SLLDP Policy 11 re-emphasises the importance of economic development but, in line with SPP, only if it is the right development in the right place. It is considered that the local economy does benefit due to the employment that has been generated however it cannot tangibly be demonstrated that apart from this employment that the operations bring about physical, community regeneration. It is also hard to argue that there are more suitable, designated sites within the locale that the applicant could have relocated to rather than pushing ahead with expansion of the current site.

- 6.13 Following on from assessing the principle of the development it is appropriate to consider the detail of the proposals. Policy 4 'Development Management and Placemaking' states that development proposals should take account of and be integrated within the local context and built form. New development should also have no significant adverse impacts on the local community. This advice is supported within Development Management, Placemaking and Design Supplementary Guidance under Policy DM1 – Design.
- 6.14 The application site is flat and sits at the same topographical level as the adjacent dwellinghouses. The land does, however, slope steeply down on the land surrounding the south and western boundaries of the site. This slope creates a plateau effect placing the site atop an open aspect. Views from Rigside are, therefore, very open. The haulage operations include lorry trailer parking on the south west portion of the site which are visible from Rigside. The commercial nature of the trailers immediately identify the site as a commercial operation as opposed to agricultural operations. The main shed on site has been painted a vivid red which also creates visual intrusion upon the open landscape. The wash bay on the southern boundary of the site has a 1.8m high timber fence screening the bay from view. The muted timber does soften the visual impact of the screen fence but again it looks incongruous within the open landscape. It is noted that, the planning submission does reference potential screen planting and it is considered that this could lessen the site's visual impact upon the landscape. Without further details of the planting it is difficult to assess how positive an impact it could have in terms of visual screening. Firstly, the steepness of the land outside the application boundary may limit the quantity and depth of any planting belt on the boundary. Secondly the aspect of the area is that of an open landscape and the addition of planting, if not carefully thought out, may result in planting that looks unnatural within the landscape further drawing the eye to the visual clutter associated with the proposals. Whilst not referenced within the planning submission, it is considered that if the sheds were painted in a muted, recessive tone (brown or green) this may soften their visual impact. Although as noted this has not been provided as a form of visual mitigation within the planning submission. It is therefore considered that the proposals are of a scale and nature that do not fit well into the context of the surrounding area.
- 6.15 The proposals are for the 24 hour operation of a large haulage yard over 7 days a week. A noise impact assessment has been carried out on behalf of the applicant and submitted as part of the planning submission. The noise impact assessment carried monitoring of noise levels at the neighbouring dwellings that front Ponfeigh Road, both during the day (7am to 11pm) and at night time (11pm to 7am). The day time noise levels of the site operations including the HGV traffic passing the neighbouring properties were within acceptable levels. It was noted, however, that the noise levels within the neighbouring properties were at unacceptable levels during night times as HGVs were passing them, to and from the site. Environmental Services have also carried out their own noise monitoring and agree with the findings of the noise impact assessment that the internal noise levels to the properties are at an unacceptable level during night time which have the potential to seriously disturb sleep patterns of residents. The noise impact assessment considers that noise mitigation could reduce night time noise levels to an acceptable standard. The mitigation proposed would be for new, upgraded glazing to be installed at the neighbouring properties and the applicants have offered to install this. Environmental Services do agree that acoustic glazing would reduce noise levels to tolerable levels during the night time period but only if the windows remain closed. However they advise this is not acceptable during warm weather when it is expected windows would be open during the night. In any event, without the agreement of the property owners, a condition requiring the installation would not be enforceable.

- 6.16 As a result the applicant has not been able to mitigate against the unacceptable night time noise levels the HGV operations create. They have been asked to explore a new haulage road to be built from the site's eastern boundary to join Ponfeigh Road further up, nearer to the A70 junction. A new haulage road would effectively allow HGV traffic to bypass the noise sensitive properties at a distance that would ensure noise levels would be at an acceptable level. Environmental Services agree that this would negate any noise issues received by the neighbouring receptors. The applicant has stated that he would not investigate a haul road due to issues of cost and land ownership.
- 6.17 As a result Environmental Services are unable to recommend that the permanent use of the site for a haulage business on a continuous 24 hour basis would be acceptable in its present form. It is therefore concluded that the scale and nature of the proposed use is at odds with the local context. The level of activity associated with the 24 hour operation of this site and in particular the noise associated with this activity is considered to have a significant adverse impact on the part of the local community most directly affected by the proposal
- 6.18 Policy 16 'Travel and Transport' states that new development must conform to South Lanarkshire's Guidelines for Development Roads. Policy 16 further states that new development proposals must consider, and where appropriate, mitigate the resulting impacts of traffic growth, particularly development related traffic, and have regard to the need to reduce the effects of greenhouse gas emissions and at the same time, support and facilitate economic recovery, regeneration and sustainable growth. A Transportation Statement (TS) has been submitted as part of the planning application. Transportation Services have reviewed the TS as well as carrying out visual surveys of Ponfeigh Road. They have also held discussions with the applicant and their traffic consultants.
- 6.19 Transportation Services have advised that since the company started operating from the site there has been an adverse impact on the road network (Ponfeigh Road) due to the unsuitability and dimensions of the existing carriageway to consistently accommodate the types and numbers of vehicle associated with the proposals. They have made several recommendations for the improvements required on Ponfeigh Road in order for the proposals to be considered acceptable based on the current level of HGV use. These include rebuilding the road at its junction with the access into the site, reinforcing the road verge opposite the site entrance and making contributions towards strengthening repairs along the public road up to its junction with the A70. If these works are not carried out there is a concern that this section of road may collapse in the near future.
- 6.20 The level of works required and costs have been shared with the applicant. Currently, the applicant has not agreed to carry out or pay for the works which are considered to solely be required or attribute to the haulage operations. As noted earlier the works to the structure of Ponfeigh Road at the access could be negated should the applicant investigate a haulage road that would bypass this section of the public road network. Therefore, without the required works being carried out the proposals are contrary to Policy 16 on the grounds of road safety. It is also noted that, separate to this planning application, the Council, as Roads Authority has initiated action to pursue the recovery of extraordinary expenses relating to the maintenance of Ponfeigh Road covering the period 13 July 2015 to 16 June 2020. Maintenance costs for this period have increased because of the traffic levels that have been generated in connection with the application site using Ponfeigh Road.

- 6.21 Drawing all of the above together the proposal involves the creation of a storage and distribution use within the rural area. In overall land use terms, the proposals do not accord with policy on development in the rural area, as the use is not considered one that is appropriate in the countryside nor is the site in a sustainable location. In addition the adopted SLLDP allocates a generous supply of employment land across the Council area and this includes the Poniel investment site very close to the application site and where there is an extant planning permission for this type of intensive use. The proposals do not accord with the development plan nor with the principles set out in SPP
- 6.22 Equally, the applicant has successfully expanded the operations of the company since relocating to the site and currently employs over 124 people. This is a significant number in the context of the site's location within the Douglas Valley where the unemployment rate and deprivation index is high. Consideration has, therefore, been given to whether the continuation of the use at this location is, or can be made, acceptable in planning terms. As detailed elsewhere Environmental Services have advised after a thorough examination of the impact of the development on noise receptors that they are unable to recommend the use of the site as a permanent 24 hour operation in its present form. They have stated that between 23:00hrs and 07:00hrs noise intrusion from passing site-specific vehicles is likely to be beyond tolerable to residents living adjacent to the development. The transport assessment submitted by the applicant states that on average there would be 20 HGV movements past the residential properties adjacent the site between these critical hours which have the potential to seriously disturb sleep patterns of residents. Mitigation which would require windows to be kept shut throughout the year is unreasonable. The applicant has stated they are not willing to agree to a restriction on the hours of operation.
- 6.23 The design of the buildings are functional and are not in keeping with the surrounding area. The buildings are located on an open and elevated site within a broad landscape and therefore create a detrimental visual impact within the area. Due to the steep drop of the boundary of the site any proposed screening may be difficult to plant to be effective and the vivid red colour of the main shed building further enhances the visual impact of the site. It is considered that a muted colour for the shed and planting may help soften the site's visual appearance but no detailed proposals have been put forward and whilst the site has been operating for several years no attempt at screening has previously occurred whilst further unauthorised development and enlargement of the site was carried out while negotiations about the means to mitigate the impact of the use were still ongoing.
- 6.24 The other key issue is the unsuitable construction and dimensions of Ponfeigh Road which is showing increasing signs of wear and tear over the period the applicants have been operating from the site. Damage to the verges and road surface is evident due to heavy and wide vehicles using the road on a regular basis. In normal circumstances, if all other things were acceptable, the upgrading of Ponfeigh Road could be controlled with the imposition of conditions to have improvements carried out to the existing road to make it fit for purpose. However the applicant does not accept the business is responsible for this damage and so measures to remedy and improve the situation have not been explored or fully assessed.
- 6.25 Based on the detailed assessment above, it has been concluded that the proposed use of the site is not an acceptable form of development for the site and is, therefore, contrary to the development plan. In assessing whether a departure from the adopted South Lanarkshire Local Plan can be justified, weight has been given to the economic benefit of the business at this location, the negative impact on the rural nature of the

site and area, the disturbance to the residential amenity of the adjacent houses and impact on the local road network. Overall, it is considered the economic benefit in terms of local employment opportunities does not overcome the impact this development has on its surroundings. In view of the above a justification for a departure from planning policy has not been demonstrated and the granting of planning permission is not appropriate. The Council has attempted to explore solutions to remedy the existing on site issues (ie the formation of a new access road) and identify alternative sites for the business but they have been rejected by the applicant.

- 6.26 The applicant has pointed out that there are examples of HGV operations being carried out elsewhere within the rural area. In response, a number of these activities either benefit from planning permission or are lawful in planning terms due to the length of time they have been operating. In addition, in the vast majority of cases, they are not of the same scale or nature as these proposals and/or do not have a close relationship with existing properties as is the case here. Where it is determined that those companies are unauthorised investigation will be carried out to review the situation on the merits of each individual case.
- 6.27 In conclusion, it is, therefore, considered that the application cannot be supported and following the detailed assessment set out in section 6 above the application is recommended for refusal. As noted, given the application is in retrospect, the recommendation of refusal is therefore also accompanied by the request to the Planning Committee for Enforcement Action to be taken to ensure the timeous cessation of operations at the site and return the site back to agricultural use. It is considered that an appropriate time period for this would be from 3 months from the date of any Enforcement Notice if agreed.

7 Reasons for Decision

- 7.1 The operation of the site is considered to be unsuitable within its rural location and has a significantly adverse impact upon existing residential amenity and road safety within the immediate area and no appropriate mitigation has been submitted to minimise these impacts. The principle of the use of the site is not of an appropriate scale that is suitable at this location and the design and materials used are not considered to minimise the proposals visual impact. The proposals therefore do not comply with 1, 3, 4, 7, 11, and 16 of the South Lanarkshire Local Development Plan 2015 and associated Supplementary Guidance and the Proposed South Lanarkshire Local Development Plan 2.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

Date: 14 September 2020

Previous references

- ◆ CL/17/0400

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification advert dated 2 July 2019

► Consultations	
West of Scotland Archaeology Service	04.07.2019
Environmental Services	
Roads Flood Risk Management	16.09.2019
Roads Development Management Team	03.09.2020
SEPA West Region	10.07.2019
Coal Authority Planning Local Authority Liaison Dept	03.10.2019

Contact for further information

If you would like to inspect the background papers or want further information, please contact:-

James Wright, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455903

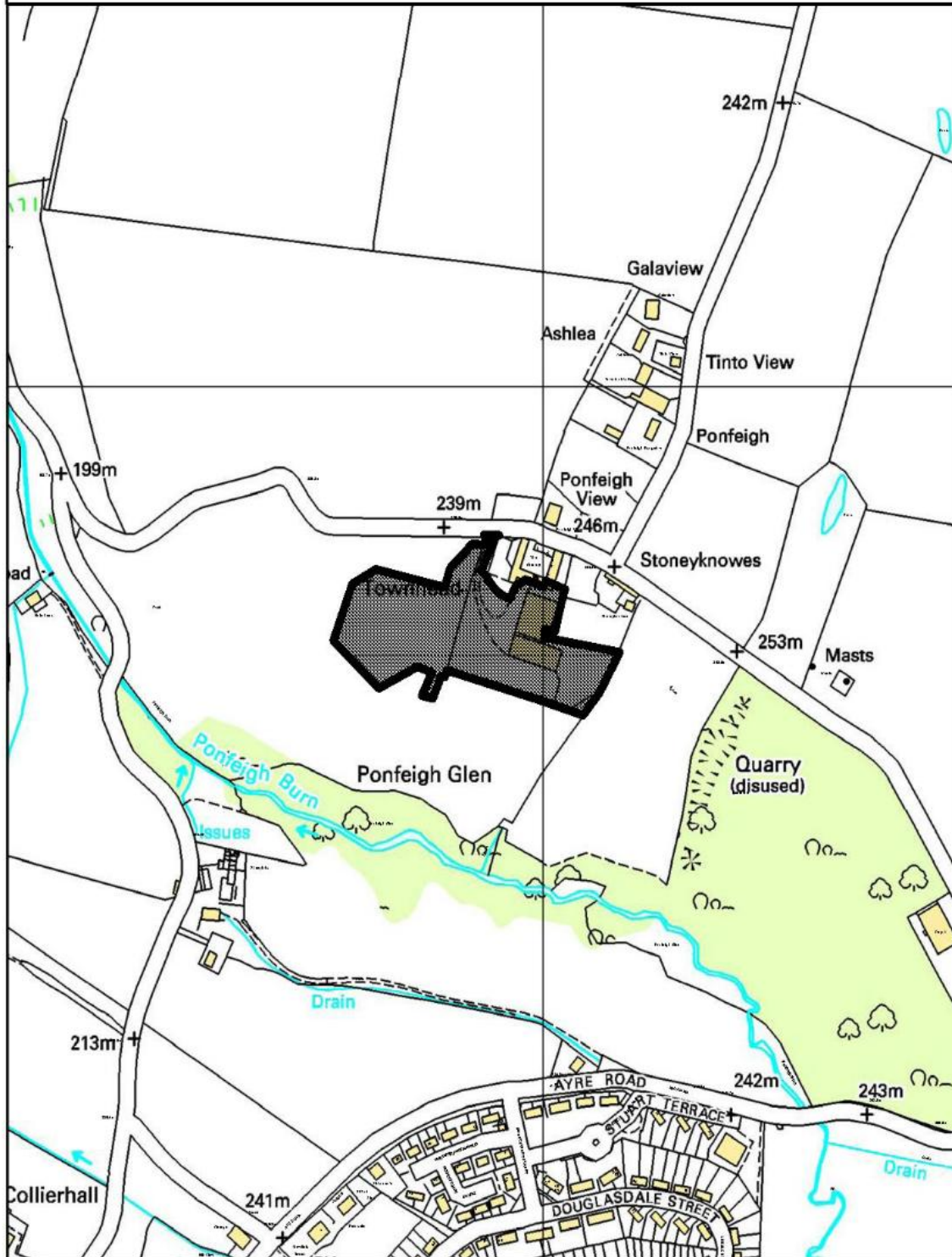
Email: james.wright@southlanarkshire.gov.uk

Reasons for refusal

01. The application site lies within the Rural Area and is not on land designated for Employment. The proposal is therefore contrary to SPP (2014) and Policies 1, 3, 7 and 11 of the approved South Lanarkshire Local Development Plan (2015), Policy GBRA1 of Supplementary Guidance 2: Green Belt and Rural Area, and Policies 1, 4, 8 and GBRA2 of the proposed Local Development Plan2 (2020).
02. The proposal, by nature of its 24 hour operations, would have an adverse impact upon existing residential amenity within the immediate area is therefore contrary to Policies 3 and 4 of the Adopted South Lanarkshire Local Development Plan (2015), Policy DM1 of Supplementary Guidance 3: Development Management, Placemaking and Design and Policies 4, 5 and GBRA2 of the Proposed South Lanarkshire Local Development Plan 2 (2020).
03. The proposal by nature of its location and use would have an unacceptable and detrimental impact upon the public road network and is therefore contrary to Policy 16 of the Adopted South Lanarkshire Local Development Plan (2015) and Policy 15 of the Proposed South Lanarkshire Local Development Plan 2 (2020).
04. The proposal, by nature of its location, colour and lack of landscaping, would have an unacceptable visual impact within the surrounding landscape and as such is therefore contrary to Policies 3 and 4 of the Adopted South Lanarkshire Local Development Plan (2015) and Policies 4 and 5 of the Proposed South Lanarkshire Local Development Plan 2 (2020).

P/19/0816

Townhead Farm, Ponfeigh Road, Sandilands



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Scale:
1:5,000
Date:
27/08/2020



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development