

REVIEW APPLICATION

Section 43A Town and Country Planning (Scotland) Act 1997

STATEMENT OF REASONS AND ALL MATTERS TO BE TAKEN INTO ACCOUNT

App No.: 14/00390/P, Registered 28th May 2014
Proposal: Change of use of vacant land (former market garden) to used car sales area with sales cabin and associated works.

Site: Vacant Land at Meadowmill, Tranent, East Lothian EH33 1LZ
Applicant: Mr Andrew King

Decision : Planning Permission Refused, 5th September 2014

This Statement also refers to the Planning Assessment in the Officer Report of 28th August 2014.

APPLICATION SITE

Although correctly described in terms of area extent, boundaries and related planning permissions, the site does not in reality have a 'countryside' character. It is in fact a small piece of residual brownfield land, of derelict appearance, sandwiched between –

- a) terrace housing and other properties to the south, along the south side of the U109 public road, and
- b) the major transport corridor to the north comprising:
 - the significant width of the East Coast main railway line
 - an intervening line of trees, and
 - the busy elevated B1361 public road.

The northern boundary of the site is enclosed by 2m high metal silver mesh railway security fencing, of high visibility (see Photograph 1).

The site itself is presently overgrown having been cleared of former garden nursery glass houses and other site features about 10 years ago. The site retains its vehicular access with wide visibility sightlines.



SITE DEVELOPMENT HISTORY AND THE COMMUNITY OF MEADOWMILL

Planning application neighbour notification indicates the following residential and other properties which comprise the community of Meadowmill. All are situated on the south side of the U109 opposite the application site, the residential properties being numbered as 'Meadowmill Cottage':

Residential	Nos 6 (Steil House), 7, 7A, 7B, 8, 9, 12, 13, 14, 15
Business	Network Rail (Scotland) & Chimney and Roofing Specialists Limited Meadowmill

The community of Meadowmill thus comprised the south side houses plus an established garden centre business, all served more recently by the cul-de-sac status of the U109 public road.

'Meadowmill Nursery' and the former 'Meadowmill Gardens' operated over a long period until recently in a satisfactory manner and without adverse residential impact.



North side – present application site

The site previously operated as 'Meadowmill Gardens', an established market garden business operating for several years on land leased from British Rail. The lease was taken over by the applicant in 1983, when the site was bought and the extant glasshouses purchased.

'Meadowmill Nursery' continued the business, with an expanded retail operation adding to site grown plants sales.

The four large glasshouses on the application site on the north side were complemented with a large oil fire heated building (extant) and a large glass house on the south side of the U109 road.

The four glass houses were large structures – an older wooden framed one of 90ft x 50ft (4,500 sq ft, 418 sq m), and three metal framed each of 70ft x 50ft (each 3,500 sq ft, 325 sq m). Total building floor area was thus c. 15,000 sq ft (1,400 sq m).

Glass house height would have been 10-12ft (3.0-3.5m) and being built within 3-4m of the road edge would have had a significant visual impact.



It is unfortunate that photography of the former business is not available but it is certain that many local customers and residents will remember the scale of the business and how it operated satisfactorily.

An Established Business 1983 - 2007

The garden centre operated successfully between 1983 and 2005 when the commercial decision was taken to cease the 'Meadowmill Nursery' business. Operation of the market garden nursery business thus continued over more than 22 years.

In addition from 1990 to 1997 paving slabs, sand and gravel were also sold. This intensification of the business was the subject of Planning Department consultation but with no resultant need decided upon for formal approval.

Between 1983 and 2005 the business operated with seasonal emphasis, 3-5 people being employed both full- and part-time.

Car parking spaces within the application site were provided for 10-12 cars, with additional 3-4 cars also often being road-side parked on the U109. Operation of the businesses generated customer car access and parking demands, plus the access and turning requirements of large commercial vehicles supplying plants and related sale products.

The U109 public road was once a through route before mid- 1990s construction of the now B1361 and railway line overpass. The road through Meadowmill then experienced much reduced traffic flow and impact on residential amenity, the cul-de-sac community becoming a quiet enclave. However, the Meadowmill Gardens continued to operate as a successful business on both sides of the road, with customer and commercial traffic and parking generation.

All the glasshouses and structures on both the north and south side of the road were demolished between 2005 - 2007. Since then the applicant has investigated appropriate alternative uses for both the north and south side sites, resulting in the current planning application.

East Side – Former Meadowmill Nursery Site

As part of the 'Meadowmill Nursery' business, a fifth large 90ft x 50ft ((4,500 sq ft, 418 sq m) non-glazed structure also existed on the eastern part of the site. This building was also demolished between 2005 - 2007. This site was then sold to Mr Bernard Anderson.

The new owner was granted planning permission in 2014 for change of use of vacant land to domestic use and part business use, erection of domestic shed, caravan, business storage container, gates and fencing (Part retrospective) (13/00169/P, 2nd July 2014). Approval was granted subject to a Section 75 Agreement to prevent any future erection of a house on the land.

The delegated Officer Report indicated that support for the application was based on:

- In terms of Policy DC1 *“other business use will also be acceptable where it is of an appropriate scale and character for its proposed location in the countryside, it can be suitably serviced and accessed and there is no significant traffic or other environmental impacts.”*
- *“The area of vacant land ... is not readily visible outwith Meadowmill. In that the land is bounded to the south and east by the U109 public road, to the west by a strip of vacant land and to the north by the main east coast railway line, it is physically separated from the nearby expanse of agricultural land. Due to such containment of the land ... would not by its proposed changed form and appearance, be harmfully intrusive, incongruous or exposed within its landscape setting. It would not harm the landscape character and appearance of the area.”*
- *“Due to the small scale of the business use, the well contained location at Meadowmill and close proximity to the applicant’s property the business use is of an appropriate small scale and character for its proposed location in the countryside”*
- *Given the secluded nature of the application site, the existing landscaping around its boundaries and the proximity of the houses at Meadowmill with which they have a functional relationship the proposed shed, caravan and business container would not and do not appear as harmful visual intrusions within their landscape setting and would not be and are not harmful to the character and appearance of the area.”*

Change of use of the vacant site to the east was thus considered compliant with policy. It is considered that support for the application site proposal does not raise issues or concerns that are essentially different from the application site.

It is therefore considered that the precedent of the East Side site is relevant to positive consideration of the application.



West Side

The applicant also owns the small adjoining triangular shaped vacant land to the west. There are no development proposals for this site, although tidying and shrub planting may be considered.



South Side - Concrete Garages Scotland

The storage building on the south side of the road was quite large, built to the pavement edge and with a two storey appearance. This building is now the recently approved operational base, together with related yard space, of Concrete Garages Scotland. The rear show-site display yard of assembled garages has an established vehicular access.

The business supplies and installs sectional concrete garages, concrete workshops and industrial units and concrete sheds throughout mainland Scotland and the islands. Concrete Garages Scotland also have two other operational bases at 26 Whin Place, Nerston East, East Kilbride, Glasgow G74 3XS and Unit 10, Souterford Drive, Inverurie Business Park, Aberdeenshire AB51 0ZH.

It is essentially a product display business operating in a benign manner in conformity with Class 4 compatibility with residential amenity criteria.



South Side – Approved Class 4 Business

The applicant has also recently been granted planning permission for the erection of a Class 4 use building (13/00192/PP, approved 7th June 2013) adjoining the south side former market garden site. Class 4 Use is, by definition and planning control, compatible with neighbouring residential amenity.

The proposed building has the following Conditions :

- 1a. no higher than two storey
- 1c. building line aligned with neighbouring houses 13, 14 and 15 to the west and the two storey commercial building to the east
- 1g. appropriate parking spaces within its cartilage
- 1h. commercial vehicle turning space within cartilage
- 1i. existing and any new vehicular access to have visibility sightlines of 2.0m x 40m
- 1k. any vehicular gates not to open onto the public road



SITE DEVELOPMENT IMPACT – USED CAR SALES

Both the South Side businesses provide the planning context and precedence for positive consideration of the proposed car sales proposal, which reasonably must also be viewed as compatible with the houses opposite.

Used Car Sales businesses are essentially benign in impact. The proposed use is solely for used car sales. No car maintenance activity (servicing, repair, paint spraying etc) is included in the application. The use and appearance of the site will essentially be that of a car park.

The Officer Report presents a sound analysis of the positive aspects of the proposal in terms of traffic, access, parking and the acceptable impact on the amenity of neighbouring residential properties.

Lack of Technical Objection

Basically, there is no technical objection, except on the alleged lack of justification in this countryside location by virtue of its scale and form. The site will not have a high visual presence even from the elevated B1361, tree screening and traffic speed limiting visibility and impact. The business itself, even if and when operating successfully, should not create any environmental impact.

In many ways the proposed use is similar to a Class 4 use and would similarly pass the residential amenity test by reason of not generating noise, vibration, smell, fumes, smoke, soot, ash dust or grit.

Nine residential neighbours submitted nineteen points of objection. All have been analysed and responded to by the Council's Planning Officer, Road Service,

Environmental Protection Manager or Archaeology Officer, with no objection assessed sufficient to warrant being a reason for refusal.

In particular, the applicant agrees with the Officer Report which notes that “use of the U109 public road by customer traffic of the proposed business is unlikely to be such that it would have a harmful impact on the amenity of those neighbouring residential properties”. It is considered that this judgement is correct and also emphasises the almost certainly lower levels of site access that will apply to the used car sales business compared with when ‘Meadowmill Nursery’ was fully operating.

Neither, on matters of wider regional or strategic relevance, do Scottish Water, National Rail, The Coal Authority, Historic Scotland or raise site development issues regarded as being planning concerns.

Business Operation

The applicant on successful receipt of planning permission would market the site for the establishment of a local car sales business. The business would be known locally through advertising and reputation. But by reason of the site’s limited extent and relatively discrete location it will not attract a large commercial operator seeking a high volume business. Employment would be generated, perhaps 2-4 jobs dependent on business scale and operational success.

Access to the site will be from the B1361 which has a high standard junction ensuring safe access and egress onto the U109. Site access will be taken via the existing former ‘Meadowmill Nursery’ access which has excellent visibility sightlines.



Used Car Sales Operation

It is submitted that the proposed site use will not generate uses, activities or impacts on residential amenity significantly different or worse than those that have existed since 1983 and probably before this date. Prospective customer visits to purchase a vehicle will necessarily be much more limited in number than those who visited in the past to purchase garden plants and products. Visitor numbers will almost certainly be less, and commercial vehicle access will be significantly reduced.

The proposal thus does not generate site development problems and is correctly considered to not pose any concern in terms of maintaining good neighbour status with existing residential properties. The amenity of neighbouring residents should not be

affected and, arguably, may be less impacted upon than when 'Meadowmill Nursery' was operating.

Buildings	There will be no buildings covering a good proportion of the site, as only one small sales cabin is proposed. This portacabin will be the same size as that recently permitted on the site to the east (13/00169/P) and it will be located at the rear of the site alongside the railway security fence 6.5m distant from the nearest house. It will operate as an office for car sales purposes and will be occupied during site operational hours. For a small business it may provide accommodation for possibly two members of staff.
Access	The existing access will be re-used after surface improvement, possible sightline, with the addition of security gates.
Site Fencing	North existing Network Rail security fencing, 2m high East existing 1.8m high vertical board, brown stained West proposed 1.8m high timber vertical board, to match east fence South Existing 1m high chain link fence with existing Berberis hedge planting, to be augmented as necessary to provide 1.8m high green roadside screening.
Site Surface	Gravel, with a hard formed access to the public road.
Appearance	The cars would be sited and seen on a level site, screened by a low fence and higher mainly established evergreen shrubs alongside the U109. Roadside shrub screening could be enhanced to establish a 1.8m high green screen, behind which sale and customer cars would be largely unseen.
Used Car Sales	52 spaces are shown on the application drawing, in three rows. This capacity may well be in excess of that required by a small local used car sales business. It may be that the third shorter row of vehicles nearest the U109 and closest to houses could be deleted or reserved for cars only when the two main rows are complete. Cars for sale and after purchase would be customer self driven, with only some car sale vehicles delivered by occasional small transporter (not large HGV), and would have a negligible impact on operation of the U109 public road
Customer/staff	13 spaces are shown but it is unlikely that they will be fully used at any particular moment, with perhaps 3-5 visitors being a more reasonable prediction.
Employment	It is probable that 2-4 jobs would be created.
Sales Hours	Assumed to be normal trading hours, subject to stipulation in approval condition.

Planning Officer Positive Conclusions

The planning officer's report, therefore, concludes approvingly with two key statements:

- *“the proposed development would not be harmful to residential amenity of nearby residential properties and on these considerations of residential amenity does not conflict with Policy DP” and Part 5 of Policy DC1 of the adopted East Lothian local Plan 2008.”*
- *“the proposed use of the site ... could be provided with a safe means of vehicular access and a sufficient standard of on-site parking and that as such it would not result in a road or pedestrian safety hazard. Accordingly, the proposed development does not conflict with Policies T2 and DP22 of the adopted East Lothian local Plan 2008”*

Concern, however, remained with the proposed site’s scale and form, resulting in it being considered to be an unjustified and inappropriate form of development in this countryside location.

PLANNING POLICY - ‘COUNTRYSIDE LOCATION’ AND CHARACTER

It is submitted as unfortunate that the East Lothian Local Plan 2008 did not designate the total community of Meadowmill as a settlement enclosed within an ENV1 policy boundary extending northward to the railway line. Policy ENV1 seeks to safeguard residential character and amenity. The ENV1 policy boundary only included the housing area and excluded the former garden centre land on both the north and south side of the U109.

The northern ground area – the application site - is unfortunately designated as Policy DC1 “Countryside”, a planning policy inappropriate to the site’s Meadowmill settlement location and its long development history.

Positive Planning Support

Planning consideration, however, gives rise to three key positive conclusions :

1. As noted in the Officer Report, the proposed use does not in itself generate objection (see above).
2. Essentially, it is agreed that redevelopment of the former Meadowmill Nursery would be compatible with Class 4 criteria.
3. Redevelopment of the southern ground has also now recently included a Class 4 approval plus a trade operating from the store building, both of which are compatible with ENV1 policy.

The Site is Not ‘Countryside’

It is submitted that the site does not occupy a ‘countryside location’, and has a present character and history of past use that do not support its definition as ‘countryside’.

The site has a long history as a developed site covered in glass houses, and for decades has been regarded as a benign development site satisfactorily related to neighbouring houses.

- **CONCLUSION**

It is inappropriate, therefore, to consider the application in terms of non-compliance with strategic and local planning policies relating to countryside planning and management.

The East Lothian Local Plan 2008 does not define 'countryside'. Nor is 'countryside' defined in the strategic development plan (SDP) SES Plan 2013, although greenfield land is defined as "*Land in a settlement or rural area which has never been developed, or where traces of any previous development are now such that the land appears undeveloped*".

The land is clearly not greenfield, as it has a history of recent site development. It also cannot be said that the land appears undeveloped as the site is fenced, has an existing access and has some residual material still lying.

- **CONCLUSION**

The site is clearly not countryside by definition or appearance.

The local plan, however, in contrast defines brownfield land as "*Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable*".

It is thus more appropriate to regard the site as complying with a brownfield definition as it is vacant and occupied recently by redundant (now cleared glasshouses).

- **CONCLUSION**

The site appears visually as a brownfield site, where clearly something has been developed in the past.

Countryside Policy, East Lothian Local Plan 2008

Policy DC1 (5.96) supports appropriate rural diversification and business uses in the countryside, and notes (5.90) that policies managing development in the countryside need to acknowledge the wide range of development and activities that should and should not take place there. They must balance the competing demands for development by promoting and supporting appropriate development, whilst guarding against inappropriate development and helping direct it to more suitable locations: the character and appearance of the countryside is also to be maintained and enhanced.

It is clear, therefore, that even in 'countryside' locations an appropriate rural diversification business on an appropriate site can comply with planning policy. As noted above, clearly the proposal itself is not judged to be inappropriate in scale or operational impact. Redeveloping a large former glass house site with a visually more benign car sales business can therefore be argued at worst as maintaining the character and appearance of the countryside and at best even be regarded as enhancing it.

- **CONCLUSION**

The proposal is an appropriate local business diversification opportunity which should be supported, and which will maintain and enhance the character and appearance of the countryside.

Countryside Policy, MIR 2014

The local development plan main issues (MIR) report 2014 notes (5.82) that the SDP recognises the importance of the countryside to the area's desirability as a place to live, work, do business and visit and in providing amenity. It notes there is a need to reconcile the potentially competing demands for appropriate rural development and to maintain and enhance the character and appearance of East Lothian's countryside. It further notes (5.83) that Scottish Government strategic planning policy (SPP) recognises that there are different types of rural area and a variety of development pressures on them.

The Meadowmill site is included within the proposed designation of an extensive Countryside Around Towns policy in the Prestonpans/Port Seton/Cockenzie/Longniddry cluster for the land between Tranent, the coastal settlements and the Blindwells site.

It notes that open land to the north of the settlement is outwith the Green Belt but that it does provide a setting to the town. It further notes that there may be a case to extend the Green Belt to include this land; alternatively, a Countryside Around Town designation may be applied here instead.

Whilst it may be regarded as logical to include the application site at Meadowmill within this possible countryside around towns designation, It is considered inappropriate to subject the proposed site's re-development to such analysis and restriction. If it is to be included it must be recognised that this is only for area completeness reasons, in order to create a comprehensive encompassing zoning.

The Meadowmill site itself would thus just be included for reasons unrelated to its 'countryside' function, with the more appropriate assessment being its built environment planning integration in site and local terms.

Based on these policies it is argued that the Meadowmill application site gives rise to the following conclusions –

CONCLUSIONS

- **The site does not 'read' as countryside or farmland, either visually or functionally**
- **It does not connect with any land of such character to the east, north or west**
- **It does not fulfil a green corridor function**
- **It does not contribute to a countryside around towns function**
- **It has a character more appropriately defined as 'brownfield'**
- **Re-developing Meadowmill Nursery as proposed does not detract from a wider policy ambition to safeguard comprehensively the proposed zoning**

SES Plan policy 1b

Policy 1B sets down the spatial strategy and development principles, and requires Local Development Plans to:

- *Ensure that there are no significant adverse impacts on the integrity of international, national and local designations and classifications, or on the integrity of international and national built or cultural heritage sites*
- *Have regard to the need to improve the quality of life in local communities by conserving and enhancing the natural and built environment to create more healthy and attractive places to live*
- *Contribute to the response to climate change, through mitigation and adaptation; and*
- *Have regard to the need for high quality design, energy efficiency and the use of sustainable building materials.*

The proposed re-development of Meadowmill Nursery clearly has no impact on international or national designations or classifications, nor does the proposal raise climate change concerns. Site construction will be a low key matter. The only principle that seems relevant to respond to is that relating to the built and natural environment, and places to live.

However, in view of the previous scale, impact and longevity of site development the current proposal can only reasonably be viewed as an improvement and as contributing to policy compliance. The site will be far less busy with fewer vehicle movements, the visual impact of a small portacabin is significantly less than the previous glass houses and no chemicals will be stored on site.

CONCLUSION

- **The proposal has no strategic impact and therefore complies with policy**

RESPONSE TO REFUSAL REASON NO. 1

1. *The proposed car sales business would be an unjustified and inappropriate form of development within the East Lothian countryside, contrary to Policy1B of the approved South East Scotland Development Plan (SES Plan) and Policy DC1 of the adopted East Lothian Local Plan 2008.*

The proposed car sales business is justified on local economic promotion grounds, and was decided upon after careful consideration of an appropriate use to re-develop the former longstanding Meadowmill Nursery. The applicant owned and managed the former nursery and is fully aware of the local business scene and of how the proposal would satisfactorily integrate with neighbouring houses.

It is judged to be an appropriate form of re-development on the former Meadowmill Nursery site, and is technically supported by Council technical and planning officers as well as the wider range of consultees.

Despite the statutory zoning, the site is clearly not 'countryside' nor does it have the character that might reasonably be associated with farmland, woodland or otherwise

undeveloped rural land. On any reasonable visual perspective it is clearly a vacant development site, cleared of a former use and awaiting appropriate re-development.

Exclusion of the site from the residential community of Meadowmill with which it had been associated for many years is unfortunate. Consideration of its re-development would be more appropriately carried out in the context of its integration rather than its separation.

In fact, as the Officer report indicates, most of the planning consideration has in fact been in relation to existing housing, with the conclusion that there is no injury to residential amenity nor compromise to safe functioning.

The extent of its satisfactory development and operational integration recommends that approval rather than refusal is appropriate. Approval would not create a precedent for further nearby non-complying proposals. Neither should the proposal be regarded as major in scale or impact, or thereby be considered significantly controversial.

Full neighbour consultation has been carried out, with objections assessed as non-controversial and with the proposal not injuring local residential amenity. Development of the site is not a new proposal but is a re-development, and therefore has to be regarded as of lesser significance.

It is submitted therefore that planning judgement and discretion should allow a positive view to be taken.

- **It is submitted, therefore, that the proposal is not a departure and complies with a balanced and reasonable interpretation of SES Plan Policy 1B and ELLP 2008 Policy DC1.**

RESPONSE TO REFUSAL REASON NO. 2

- 2. The used car sales business, by reason of its size, scale and appearance would be harmful to the landscape and appearance of the area, contrary to Policy 1B of the approved South East Scotland Development Plan (SES Plan) and Policy DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.*

The site when developed would essentially be just a large car park. Its size, scale and appearance cannot reasonably be considered novel, controversial or intrusive within the landscape. The local landscape context is not countryside nor any form of open rural land when visual perspective or distant view is possible. No agricultural land is involved.

It cannot therefore be considered harmful to the landscape or appearance of the area. More appropriately it should be considered an improvement on the extensive glass houses landscape of the former Meadowmill Nursery which itself only had a local visual presence.

It is unreasonable, therefore, to regard Reason No 2 as a basis for refusal on the grounds of the proposal being a significant departure. If it is to be regarded as a departure from policy it can only be reasonably regarded as minor, and able to be decided upon positively in terms of planning judgement and discretion.

In terms of ELLP Policy DC2 Part 5, it is submitted that the proposal complies as follows:

- (a) As a site re-development, the proposal integrates into an established landscape with a lesser scale of development, and will result in an improvement to compatibility with its surroundings.
 - (b) The proposal will have minimised landscape intrusion and impact, and will integrate with the local landform.
 - (c) The proposal has no significant impact on nearby uses.
 - (d) No agricultural land is involved.
 - (e) Local Plan design policy is taken into account.
 - (f) Suitable access and infrastructure is available.
 - (g) A portacabin is replacing five former large greenhouses.
- **It is submitted, therefore, that the proposal is not a departure and complies with a balanced and reasonable interpretation of SES Plan Policy DP2 and ELLP 2008 Policy DC1 Part 5.**

CONCLUSION

It is therefore respectfully submitted that the Local Review Body consider the applicant's submission and revoke the officer delegated decision to refuse the application by granting planning permission with appropriate conditions.

3rd December 2014