

Perth and Kinross Council
Planning and Placemaking Committee – 22 February 2023
Report of Handling by Head of Planning & Development
(Report No 23/66)

PROPOSAL: Formation of vehicular access and hard standing, erection of fence and associated works

LOCATION: Land 35 metres south east of 11 Torlee Road, Birnam

Ref. No: [22/01698/FLL](#)

Ward No: P5- Strathtay

Summary

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application is for the formation of a vehicular access, a gravel access road and turning area for a new Transmission Regulator Station compound. A timber post and wire fence (1m high) is proposed along the perimeter of the new access road and a metal security fence and gate (2.4m high) around the compound. Tree planting comprising a mix of native species is proposed to screen the compound.
- 2 The application site is on the west boundary of an agricultural field located between Perth Road (A923) to the west and the River Tay to the east. The ground levels rise steeply to Perth Road and existing trees along the roadside screen the site. To the north are dwellinghouses and to the south is an access road to the local sewage treatment works.
- 3 The proposed vehicular access is to be created on the east side of a residential road (Torlee Road) and the track will run along the boundary of the agricultural field (west) to the new Transmission Regulator Station compound.
- 4 The proposed development is part of the construction of a new 15.5km intermediate pressure pipeline between Birnam and the existing Logierait Transmission Regulator Station.
- 5 The new Transmission Regulator Station will replace the one at Logierait and is classed as Permitted Development under Class 39 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Therefore, this does not form part of the application proposal.

Pre-Application Consultation

- 6 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore, the applicant was not required to undertake any formal pre-application consultation with the local community.
- 7 The applicant held a public meeting in Birnam in October 2022 to advise on the proposals for the replacement gas pipeline project. A further information event was held in December 2022 during the application process.

National Policy and Guidance

- 8 The Scottish Government expresses its planning policies through The National Planning Frameworks, Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework 4

- 9 The National Planning Framework 4 (NPF4) was approved by the Scottish Parliament on 11 January 2023, and was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan.

Planning Advice Notes

- 10 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
 - PAN 40 Development Management

Development Plan

- 11 The Development Plan for the area comprises NPF4 (as mentioned above), and the Perth and Kinross Local Development Plan 2019.

National Planning Framework 4

- 12 NPF 4 is the Scottish Government's long-term spatial strategy with a comprehensive set of national planning policies. This strategy sets out how to improve peoples lives by making sustainable, liveable and productive spaces.
- 13 The Council's assessment of this application has considered the following policy of NPF4 :
 - Policy 5 Soils
 - Policy 7 Historic assets and places
 - Policy 14 Design, quality and place
 - Policy 18 Infrastructure First

Perth and Kinross Local Development 2019

- 14 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, “Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.” It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 15 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 2: Design Statements
 - Policy 29: Gardens and Designed Landscapes
 - Policy 39: Landscape
 - Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy
 - Policy 42: Green Infrastructure
 - Policy 47: River Tay Catchment Area
 - Policy 50: Prime Agricultural Land
 - Policy 52: New Development and Flooding
 - Policy 53C: Water Environment and Drainage: Surface Water Drainage
 - Policy 54: Health and Safety Consultation Zones
 - Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

Other Policies

- 16 Perth and Kinross Supplementary Guidance: Placemaking Guide, March 2020
- 17 Perth and Kinross Supplementary Guidance: Landscape, March 2020
- 18 Perth and Kinross Supplementary Guidance: Green and Blue Infrastructure, March 2020
- 19 Perth and Kinross Flood Risk and Flood Risk Assessments – Developer Guidance, June 2021
- 20 Development Management and Wildlife Guide: Planning for Nature, April 2022

Site History

- 21 No site history.

CONSULTATIONS

- 22 As part of the planning application process the following bodies were consulted:

External

- 23 Historic Environment Scotland – Consulted due to the site being within Murthly Castle Garden and Designed Landscape. No comments to make on the proposal.
- 24 Perth and Kinross Heritage Trust – no issues raised.
- 25 NatureScot - No response.
- 26 Health and Safety Executive - do not advise against the proposal.

Internal

- 27 Structures and Flooding – No objection. Given the permitted development rights for the kiosk and provided the proposals requiring planning permission meet current SEPA guidance and legislation then no objection.
- 28 Transportation and Development – No objection subject to conditions to ensure the access is formed in accordance with the Council's technical guidance.
- 29 Environmental Health (Noise/Odour) – No comment. The proposal for the transmission regulator station is permitted development and no conditions for this element of the proposed development can be attached to any planning permission granted.
- 30 Biodiversity/Tree Officer - A detailed landscaping plan and planting schedule is required indicating species, location, tree stock size, type, planting spec, maintenance, vermin and weed control. Species should be native to Scotland and include fruit-bearing trees to maximise biodiversity value. This should be secured via condition. The new planting that is proposed is welcomed and could result in biodiversity enhancement if a range of native species is incorporated.

Representations

- 31 6 representations were received. The main issues raised within the representations are:
 - Residential road is unsuitable for proposed works
 - Impact on residential amenity
 - Impact on visual amenity
 - Loss of greenspace within residential area
 - Ownership of land on Torlee Road to form access to application site
 - Flooding Risk
 - Inappropriate use of prime agricultural land
 - Noise
 - Road Safety and Traffic Congestion
 - Loss of daylight from proposed tree planting

- Impact on existing trees and biodiversity

32 These issues are addressed in the Appraisal section of the report.

33 The ownership of land on Torlee Road was raised through the representations. However, this is not a material planning consideration. The incorrect ownership certificate was initially submitted with the application and after this was brought to the attention of Planning, the correct certificate was submitted. The applicant notified all residents of Torlee Road of the proposed development.

ADDITIONAL STATEMENTS

34

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment under Habitats Regulations	AA Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact	Not Required

APPRAISAL

35 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The Development Plan comprises NPF4, and the Perth and Kinross Local Development Plan 2019. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.

Principle

36 In respect of NPF 4, Policy 18 Infrastructure First makes it clear that an infrastructure first approach to land use planning should be at the heart of placemaking. In parallel, LDP policy considerations to assess its suitability in principle are Policies 1A, 1B Placemaking; Policy 39: Landscape; Policy 42: Green Infrastructure and Policy 50: Prime Agricultural Land.

37 The proposed development is associated with the construction of a new 15.5km intermediate pressure gas pipeline between Birnam and the existing Logierait Transmission Regulator Station. The new Transmission Regulator Station will replace the one at Logierait and that aspect is classed as Permitted Development.

38 As this proposal is associated with the provision of essential infrastructure being delivered in the wider area, the general principle of the provision of an

access, and associated hardstanding, fencing, and landscaping, has been chosen in light of site specific considerations, and seeks to integrate the development in as sensitive a manner, whilst considering the wider functionality of the proposals, it is considered the proposal aligns with the aforementioned policies as shall be fully discussed below

Design and Layout

- 39 The Supporting Statement highlights that the application site was specifically selected because it is located on the western edge of the field, in a recessed area which is encompassed to the south and west by the topography and woodland which slopes steeply up towards the Perth Road, and to the northwest by the hedges and planting along the edge of Torlee Road. It states the first 6 metres of the private track would be tarmac to prevent loose material falling onto Torlee Road. The remaining section of the track would be formed of crushed stone/gravel. The native woodland tree planting proposed would blend in against the existing backdrop of existing woodland. The Statement noted that trees would be interspersed with both heathers and blueberry to provide appropriate ground vegetation.
- 40 The design and layout are sympathetic to the constraints of the site and the character and amenity of the place. Tree Planting is proposed to screen the proposed development and a condition (Condition 4) is recommended to ensure a detailed tree and landscape plan is submitted for approval by the Council. In response to a matter raised in the representations, the plan should consider the location and species of new trees to avoid any potential shading and loss of light for the residential properties to the north. The new planting will also enhance existing green infrastructure as part of a wider green network.
- 41 The proposed vehicular access and track to the site compound is to be located on the field boundary (west). The site is well screened due to the drop in level from Perth Road and mature planting on the site boundary and along the access road to the local sewage works (south).
- 42 The design and siting of the development has been sensitively considered and respects the character and amenity of the place. The new planting will enhance existing green infrastructure as part of a green network. The proposal satisfies Policy 14 of NPF 4 and Policies 1: Placemaking and 42: Green Infrastructure of LDP 2.

Built Heritage

- 43 The agricultural field is located in the boundary of Murthly Castle Garden and Designed Landscape. The Garden and Designed Landscape contributes to the character and quality of the landscape in Perth and Kinross. However, the agricultural field does not form part of the important landscape components of this designation which comprise of the gardens, walled gardens, woodland and parkland which provide an attractive setting for several category A listed buildings.

- 44 As noted above, Historic Environment Scotland has no comment on the proposal. It is therefore considered that the proposal will not have a detrimental impact on the Garden and Designed Landscape given its location and the small-scale nature of the proposal, and therefore the proposal satisfies Policy 7 of NPF 4 and Policy 29: Gardens and Designed Landscapes and Policy 39: Landscape of LDP 2.

Prime Agricultural Land

- 45 Policy 5 Soils of NPF 4 states that development proposals on prime agricultural land will only be supported where it is for essential infrastructure and there is a specific locational need. Similarly, Policy 50: Prime Agricultural Land of LDP 2 states that outside the identified settlements, development on prime agricultural land will not be permitted, unless it is necessary to meet a specific established need, such as a major infrastructure proposal and only when there is not other suitable site available on non-prime land.
- 46 In this instance, the compound is to be located adjacent to an existing pipeline route through the field. The proposed development is part of a major infrastructure proposal. The location, design and layout minimises the amount of protected land that is required, and therefore the proposal aligns with the defined exemptions within the aforementioned policies.

Residential Amenity

- 47 Traffic and Vehicle Movement - The applicant advises that maintenance vehicles will visit the site monthly and 12 visits per year are anticipated. A gate will secure the vehicular access to the site. No significant detrimental impact on residential amenity is expected from the new vehicular access and movement of vehicles to the site.
- 48 Visual Amenity - The compound is to be located over 30m from the rear garden of the nearest dwellinghouse. Tree and landscaping is proposed around the compound to help mitigate any potential impact on visual amenity.
- 49 Noise - The representations raised the issue of noise from the Transmission Regulator Station. This is classed as permitted development and cannot be assessed as part of the application. However, the applicant has confirmed that based on the information available it would not be expected to exceed the noise levels in the Council's Standard Condition which states '*All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise there from shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.*'
- 50 The applicant has undertaken to record noise levels before and after the installation of the Transmission Regulator Station in order to reassure local residents. Recording equipment has been installed in the field adjacent to Torlee Road for this purpose. Environmental Health has been contacted regarding this assessment. However, as noted above, the TRS is considered

to be permitted development, and is therefore not in itself a consideration of this application.

Roads and Access

- 51 Transportation and Development has no objection to the proposal. A condition (Condition 3) is recommended should planning permission be granted to ensure the vehicular access is constructed in accordance with the Council's Road Development Guide.

Drainage and Flooding

- 52 A Flood Risk Assessment was prepared for a site in the field initially under consideration adjacent to the sewage treatment works (south). The site was not considered suitable due to its high flood risk and access to the compound is required around the clock. The location of the proposed site is less of a flood risk. The applicant has advised that any surface water issues will be managed and mitigated as part of the installation.
- 53 The Council's Flooding Team has no objection provided the proposals meet current SEPA guidance and legislation. It is recommended that an informative is attached to any planning permission granted.

Developer Contributions

- 54 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

Economic Impact

- 55 The proposal is part of a replacement gas pipeline between Birnam and Logierait.

VARIATION OF APPLICATION UNDER SECTION 32A

- 56 This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variation removed the Transmission Regulator Station from the application proposal as this is classed as Permitted Development under Class 39 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. The application was renotified as a result of the variation.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 57 None.

DIRECTION BY SCOTTISH MINISTERS

- 58 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been

no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

59 To conclude, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with NPF4, and the adopted Local Development Plan 2 (2019). Account has been taken account of the relevant material considerations and none has been found that would justify overriding the Development Plan.

60 Accordingly, the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been lawfully started within that period.

Reason - This is a Planning Permission in terms of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of the Planning (Scotland) Act 2019.

2. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

3. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type B Figure 5.6 access detail of Type B Road construction detail. The Type B Road construction detail shall continue into the entrance for a distance of 6.0 metres from the boundary of the public road surface.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

4. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site,

full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

5. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None.

D INFORMATIVES

1. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council, as Roads Authority, consent to open an existing road or footway prior to the commencement of works. Information on junction types, requirements for Vehicular Access consents (VA1) and application forms are available at www.pkc.gov.uk/vehicleaccess. Advice on the disposal of surface water should be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
2. The applicant is advised to contact the Street Lighting Partnership, as there is existing underground cabling in vicinity of any vehicle access and will need to be lowered to a minimum depth of 750mm. Design and specification will require to be agreed.
3. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

4. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
5. This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. The required information must be submitted via the ePlanning portal if your original application was lodged that way, otherwise send it to us at developmentmanagement@pkc.gov.uk. Please be aware that a fee is payable in respect of each request made, though there is no limit to the number of conditions that can be discharged in a single request. The Fees Charter is available on our website www.pkc.gov.uk.
6. The Council has two months to consider the information. You should therefore submit the required information more than two months before your permission expires. We cannot guarantee that submissions made within two months of the expiry date of your permission will be able to be dealt with before your permission lapses.
7. The applicant is advised to refer to Perth & Kinross Council's Supplementary Guidance on Flood Risk and Flood Risk Assessments 2021 as it contains advice relevant to your development.
8. https://www.pkc.gov.uk/media/48541/Flood-Risk-Flood-Risk-Assessment/pdf/Flood_Risk_Flood_Risk_Assessments_adopted_March21.pdf?m=637647027940470000
9. This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variations removed the Transmission Regulator Station from the application proposal as this is classed as permitted development under Class 39 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

Background Papers: 6 letters of representation
Contact Officer: Clare Myles
Date: 10 February 2023

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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