

Perth and Kinross Council
Planning & Development Management Committee – 29 June 2021
Report of Handling by Head of Planning & Development (Report No. 21/106)

PROPOSAL: Siting of container unit for use as hot food takeaway and formation of decking (for a temporary period)

LOCATION: Dunkeld and Birnam Railway Station, Birnam

Ref. No: [21/00624/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 site is Dunkeld and Birnam Station, Birnam. The application seeks detailed planning permission for the siting of a container unit for the use as a hot food takeaway and the formation of decking. The application has been applied for on a temporary basis, requesting a period of 5 years or less.
- 2 The proposed container is 3.05m in length, 2.45m wide with a height of 2.6m. The container will be made from corrugated metal and painted in a dark green colour (Pantone 3537C). The container will have a service hatch on the north elevation and an access door on the west elevation. All on-site cooking will be done via electric ovens. No drainage will be installed. The hand wash basin will be serviced by fresh and foul water tanks.
- 3 The container will be placed on a timber decking with an access ramp on a hardstanding area currently used for overflow parking. The decking, excluding the ramp, is approximately 22.5sqm (5m x 4.5m). Next to the decking area there is proposed to be a bin storage area, with planted pots to assist with screening.
- 4 The supporting statement indicates that the unit will be operational 11:00am – 10:00pm, Monday to Sunday. It is indicated that the intended occupier is 'The Craft Diner'.

PRE APPLICATION CONSULTATION

- 5 No formal pre-application consultation was undertaken.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework 2014

- 7 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2014 (SSP) (Revised December 2020)

- 8 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 9 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35
 - Placemaking : paragraphs 36 – 57

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
 - PAN 51 Planning, Environmental Protection and Regulation

Creating Places 2013

- 11 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

National Roads Development Guide 2014

- 12 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

DEVELOPMENT PLAN

- 13 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019.

TAYplan Strategic Development Plan 2016-2036

- 14 TAYplan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

- 15 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application:

- Policy 2: Shaping Better Quality Places
- Policy 9: Managing TAYplan’s Assets

Perth and Kinross Local Development Plan 2

- 16 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.

- 17 The principal relevant policies are, in summary;

18 Policy 1A: Placemaking

19 Policy 1B: Placemaking

20 Policy 5: Infrastructure Contributions

21 Policy 6: Settlement Boundaries

22 Policy 8: Rural Business and Diversification

23 Policy 27A: Listed Buildings

- 24 Policy 28A: Conservation Areas: New Development
- 25 Policy 38B: Environment and Conservation: National Designations
- 26 Policy 39: Landscape
- 27 Policy 53C: Water Environment and Drainage: Surface Water Drainage
- 28 Policy 55: Nuisance from Artificial Light and Light Pollution
- 29 Policy 56: Noise Pollution
- 30 Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

OTHER POLICIES

Placemaking Supplementary Guidance 2020

- 31 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

SITE HISTORY

- 32 None of relevance to this location.

CONSULTATIONS

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

External

Transport Scotland:

- 34 No objection to the proposed development, subject to conditional control preventing any advertisements being placed adjacent to the A9.

Historic Environment Scotland:

- 35 No objection or comments to make on the application.

Network Rail:

- 36 No objection or comments to make on the application.

NatureScot:

- 37 No objection or comments to make on the application.

Dunkeld and Birnam Community Council:

- 38 The local community council object to the proposed development on grounds of negatively impacting upon the Listed Building and Conservation Area, lack of toilet facilities, road safety and traffic impacts, and impacts upon the availability of parking.

Internal

Environmental Health (Noise Odour):

- 39 No objection to the proposed development, subject to conditional control regarding plant equipment noise, lighting, and the requirement for an effective ventilation system. The conditions recommended are in the interests of protecting neighbouring amenity.

Transport Planning:

- 40 No objection to the proposed development.

Development Contributions Officer:

- 41 No contributions required.

Conservation Team:

- 42 The Conservation Team initially objected to the proposed development due to the colouring of the container being yellow. This colour was subsequently changed to dark green and the Conservation Team have now removed their objection to the proposed development.

REPRESENTATIONS

- 43 A total of 23 letters of representation have been received in respect of the current application (11 raise objection, 10 voice support and 2 made general comment). One of the letters of support was a petition containing 44 signatures. The main issues raised within the representations are as follows:

Letters of objection (11):

- Lack of toilet facilities
- Out of character
- Loss of amenity
- Impact upon parking availability
- Intensification of existing access onto A9
- Road safety concerns
- Impact upon listed building
- Refuse disposal
- Potential advertisements

General Comments (2):

- Council should be supportive of new businesses and should not make the process more difficult than it needs to be

Letters of Support (10):

- Welcome addition to local area
- Lack of alternative facilities at station
- New businesses should be supported
- Opportunities for employment

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

ADDITIONAL STATEMENTS

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Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	AA Not Required
Design Statement or Design and Access Statement	Submitted (Supporting Statement)
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

APPRAISAL

46 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 adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 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, namely the Council's Placemaking Supplementary Guidance 2021.

47 In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is relevant and requires planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the designated conservation area.

Principle

48 Although the site is located within Birnam Conservation Area, it is not actually within the designated settlement boundary of Birnam. As such, the principle of the development will be assessed against Policy 8 'Rural Business and Diversification'. This policy offers favourable consideration to the creation of

new businesses and the expansion of existing businesses in rural areas. In this instance, a site-specific resource has been utilised. The hot-food takeaway is to target commuters and passing trade. The car park of the Railway Station, immediately adjacent the A9, is therefore considered an appropriate location for this type of business. Policy 8 also requires that any new business is compatible with surrounding land uses. The siting of a container as a hot food takeaway at a Railway Station is considered to complement the facilities on offer at the station and thus would be compatible with the surrounding uses. The principle of the development is therefore accepted, complying with Policy 8.

Design and Layout

- 49 The container is relatively standard for this nature of development and raises no adverse concerns. It is of a small scale which is appropriate for a car park setting and will not appear out of place. The proposed decking area will help to soften the visual impact of the container and will add character to the overall development. The dark green colour will help the container to blend into its surroundings without appearing overly prominent. The proposal is therefore considered to comply with the Placemaking Policies 1A and 1B.

Temporary Permission

- 50 The applicant has applied for the permission on a temporary basis, indicating a period of 5 years or less. For this nature of development, temporary permissions are usually granted for a lesser period than 5 years more usually for a 2 or 3 year period. It is therefore considered appropriate to recommend this application on a temporary basis for 3 years. Containers by their nature have the potential to age quickly if not properly maintained. Granting the proposal for a temporary period allows the Council to re-assess the proposal within a reasonable timescale should the applicant wish to remain on site for a longer period. Condition 7 reflects this temporary period of three years until 30 June 2024.

Proposed Advertisements

- 51 Within many of the letters of representation received, comments were made regarding potential advertisements. Any potential advertisements will require a separate application to be submitted for Advertisement Consent and are not a consideration for this application. An informative (informative 4) will be added to any permission highlighting this to the applicant.

Toilet Facilities

- 52 Whilst it is noted in many of the representations that there is a lack of toilet provision, it is not considered unreasonable for a takeaway container of this scale not to provide such facilities. Most similar proposals and snack vans do not include toilet facilities. The majority of customers will be passing trade and will likely already have accounted for toilet stops on their journey. Whilst staff may need to use facilities over the course of a shift, there are public toilets available a short walk away at Birnam Arts and Conference Centre. If these

facilities are closed, there are also public toilets available at Atholl Street Car Park in Dunkeld.

Landscape

- 53 The site is located within the River Tay National Scenic Area and the River Tay Special Area of Conservation. NatureScot were consulted as part of this application and made no objection or comment.
- 54 It is considered that the small scale nature of the container will have no adverse impact upon the qualities of the surrounding landscape which give rise to its designation as a National Scenic Area. It is therefore considered that there are no implications in relation to Policies 38B 'Environment and Conservation' or 39 'Landscape'.

Residential Amenity

- 55 Although remote from any residential properties, it is important that the amenity of all neighbouring properties to the proposed development are protected. The nearest residential properties are Station Cottages, located approximately 55 metres away on the opposite side of the A9 Trunk road. There are no residential properties in close proximity to the site on the same side of the A9 as the proposed development. The Council's Environmental Health Team offered no objection, subject to conditional control regarding lighting, ventilation, and plant equipment noise. These conditions are therefore proposed in the interests of protecting neighbouring amenity (Conditions 2-4). This will ensure that there is no noise, lighting or odour nuisance to any neighbouring properties and will also ensure compliance with Policy 55 'Nuisance from Artificial Light and Light Pollution' and Policy 56 'Noise Pollution'.

Roads and Access

- 56 The majority of the objections received highlighted road safety and parking implications as a concern.
- 57 With regards to road safety, the concerns raised were primarily in relation to the existing access from the station car park onto the A9, particularly with regards to right turning traffic. Many objectors consider that this access is not suitable for an intensified use and could result in road safety implications. The existing access arrangements to the Railway Station are not to be altered in any way by the proposed development. Whilst it is appreciated that the use of the access will be intensified, the level of traffic likely to be associated with a development of this scale is not considered to be significant and as such the existing access arrangements are appropriate. Transport Scotland, as the responsible Authority for the Trunk Road, was consulted and has raised no objection to the proposal, subject to conditional control regarding proposed advertisements (Condition 5). In light of the view of Transport Scotland, it is considered that the existing access is suitable for this nature of development.

- 58 With regards to the loss of car parking, which is approximately 4 spaces, it is noted that the proposed development is located in an area which is mainly utilised for overflow parking. The main area of parking is immediately adjacent and runs parallel to the A9, accommodating approximately 30 unmarked spaces. However, whilst it is appreciated that the proposal will result in additional vehicles using the parking area, it is not anticipated that there would be a large number of vehicles at any given time due to the small scale of the development. On this basis, it is concluded that the proposed development would not significantly compromise the existing parking arrangements for the station and there would remain to be sufficient parking available for users of the station. Further to this, it is also noted that many customers of the facility will be walkers and cyclists who are users of the adjacent cycle network, which is accessed directly from the site. The Council's Transport Planning Team has also offered no objection to the proposed development, considering that it can be satisfactorily accommodated on the site without having a major effect on the existing use of the car park.
- 59 Overall, it is considered that due to the small scale of the proposed development, that the existing roads and access arrangements are sufficient, as confirmed by both Transport Scotland and the Council's Transport Planning Team. The proposal therefore complies with Policy 60B 'Transport Standards and Accessibility Requirements'.

Drainage and Flooding

- 60 The site is not in an area of identified flood risk and the proposals are not considered to increase the risk of flooding or create any drainage implications. As the site is already hardstanding, there are no additional hardstanding areas to be created. No drainage will be installed for the operation of the kitchen as the hand wash basin will be serviced by fresh and foul water tanks.

Waste Collection

- 61 A bin store is proposed adjacent to the decking area. The scale of the bin store is sufficient for the scale of the development. The applicant has highlighted that waste will be lifted daily and no waste will be left overnight. An informative is recommended (Informative 6) highlighting the Council's waste requirements.

Conservation Considerations

- 62 The site is located within Birnam Conservation Area and is immediately adjacent to Dunkeld and Birnam Station, which is a Category A Listed Building. Policies 27A 'Listed Buildings' and 28A 'Conservation Areas' are therefore directly applicable. Conservation colleagues were consulted as part of this application and initially objected to the development due to the proposed colouring of the container as bright yellow. This colouring was considered to detract from the setting of the A Listed Building and viewed that it would appear too prominent in front of the building. The agent was contacted regarding this and agreed to change the colour of the container to a dark green. This dark recessive colour now proposed, will ensure that the proposal

does not detract significantly from the setting of the station. As a result of the site affecting the setting of a category A Listed Building, Historic Environment Scotland were also consulted as part of this application and have offered no objection. Conditional control (Condition 6) will ensure that the colouring is implemented and retained accordingly.

Natural Heritage and Biodiversity

- 63 The proposed development will be accommodated on an area which is currently hardstanding. It is therefore unlikely that the proposed development will have an adverse impact upon the natural heritage and biodiversity of the area.

Developer Contributions

- 64 The Council's Developer Contributions Officer has confirmed that no contributions are required as the proposal does not trigger the requirement for any contributions.

Economic Impact

- 65 The proposal is likely to have a modest but positive economic impact upon the Dunkeld and Birnam area by introducing a new business to the area. There is also the potential for employment opportunities. This was also voiced within the majority of the letters of support received. Additionally, the proposed development will enhance the facilities on offer at Dunkeld and Birnam Station.

VARIATION OF APPLICATION UNDER SECTION 32A

- 66 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 incorporate changes to the colouring of the container. The container was originally proposed to be yellow, and this was requested to be changed to a dark green colour to minimise the impact upon the neighbouring Category A Listed Building.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 67 None required.

DIRECTION BY SCOTTISH MINISTERS

- 68 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

- 69 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 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 adopted Development Plan.
- 70 Accordingly the proposal is recommended for approval subject to the following conditions:

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

- 1 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.

- 2 Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.

Reason - In order to safeguard the amenity of occupants of nearby premises and to ensure the provision of a satisfactory ventilation system for the premises.

- 3 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 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.

Reason - In order to safeguard the neighbouring residential amenity in the area.

- 4 All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage

beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

Reason - In the interests of road safety; to prevent a possible danger to road users by avoiding excessive glare or brightness.

- 5 No advertising shall be displayed adjacent to the A9 trunk road.

Reason - To ensure that there will be no distraction to drivers on the A9 trunk road and that the safety of the traffic on the A9 trunk road will not be diminished.

- 6 Prior to the completion or bringing into use of the development, whichever is the earlier, the container shall be coloured Pantone 3537C (Dark Green) or similar, as shown on plans 05 and 06 hereby approved. Thereafter, the colouring shall be retained in a reasonable condition for the life of the development, to the satisfaction of the Council as Planning Authority.

Reason - In the interests of protecting the special character of the Listed Building.

- 7 Permission is hereby granted for a limited period until 30th June 2024 and after this date the container and decking area shall be removed and the site shall be reinstated to its pre-development condition, all to the satisfaction of the Council as Planning Authority.

Reason - In view of the nature of the proposed development.

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 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.
- 2 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.

- 3 An application for Building Warrant may be required.
- 4 The applicant is advised that any proposed signage will require a further application to be submitted for advertisement consent unless it benefits from express consent as per the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.
- 5 The applicant is advised that the granting of planning permission does not guarantee right of access to the site. This should be agreed with the relevant landowner(s) prior to the commencement of the development.
- 6 The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
- 7 Records indicate that at least part of the proposed development site lies within a radon affected area where the measurement/monitoring of radon gas and the installation of mitigation measures may be required.

Further information on radon gas and the associated reports that can be obtained is available at www.ukradon.org and at <http://shop.bgs.ac.uk/georeports/>.

- 8 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 incorporate changes to the colouring of the container.
- 9 The applicants should make themselves aware of the proposed alignment options and current status of, and associated alterations to access arrangements that would be brought about by, the A9 Dualling Pass of Birnam to Tay Crossing Scheme.

More information may be found at:
<https://www.transport.gov.scot/projects/a9-dualling-perth-to-inverness/>

Background Papers: 23 letters of representation
Contact Officer: Sean Panton
Date: 17 June 2021

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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