

Perth and Kinross Council
Development Management Committee – 15 March 2017
Report of Handling by Interim Head of Planning

**Erection of a football pavilion at Donaldson Memorial Park, Church Street,
Milnathort**

Ref. No: 17/00077/FLL
Ward No: 8 Kinross-shire

Summary

This report recommends approval of the application for the erection of a football pavilion as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The site is located within Donaldson Memorial Park in Milnathort, to the west of the existing football pitch. To the west, on the boundary with the park, is Milnathort Primary School. To the southeast is a play area and the nearest residential dwellings are located 30 metres to the southwest. The site is currently grassed forming part of the park.
- 2 The proposal is to erect a single storey building with two separate changing areas, small kitchen and a multipurpose room.
- 3 No vehicular access to the building is proposed and the site would be accessed on foot. The proposed building is centrally located within the park and on street parking is available for park users. An agreement to use the primary school car park is being discussed and would be acceptable; however it is not integral to the acceptability of the scheme.

NATIONAL POLICY AND GUIDANCE

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

Scottish Planning Policy 2014

- 5 The Scottish Planning Policy (SPP) was published on June 23 2014. It 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
 - The determination of planning applications and appeals.

6 Of relevance to this application are:

- Paragraphs 219 – 233 Maximising the benefits of Green Infrastructure

DEVELOPMENT PLAN

7 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Perth and Kinross Local Development Plan 2014.

TAYplan: Strategic Development Plan 2012-2032

8 The principal relevant policy is in summary:

Policy 2: Shaping better quality places

9 This policy ensures the identification, retention and enhancement of green infrastructure and spaces whilst making the best use of their multiple roles.

Perth and Kinross Local Development Plan 2014

10 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance

11 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

12 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

13 All proposals should meet all eight of the placemaking criteria.

Policy CF1 Open Space Retention and Provision

14 This policy identifies areas of land which have a value to the community for either recreational or amenity purposes. Development proposals resulting in a loss of these areas will not be permitted except in circumstances where one or more of the criteria set out apply.

Policy NE2B Forestry, Woodlands and Trees

15 Where there are existing trees on a development site, any application should be accompanied by a tree survey. Where the loss of individual trees or woodland cover is unavoidable, mitigation measures should be provided.

OTHER POLICIES

- 16 No other policies.

SITE HISTORY

- 17 13/00814/FLL Erection of replacement football/community pavilion at Donaldson Memorial Park, Church Street, Milnathort – refused at Development Management Committee 13th November 2013.
- 18 16/01752/FLL Erection of a football pavilion at Donaldson Memorial Park, Church Street, Milnathort – application withdrawn.

CONSULTATIONS

EXTERNAL

- 19 None.

INTERNAL

Environmental Health

- 20 No objection, subject to conditions recommended related to noise and odours.

Transport Planning

- 21 No objection, no conditions recommended.

Community Greenspace

- 22 No objection, subject to conditions regarding trees and submission of a Construction Method Statement (CMS).

Milnathort Community Council

- 23 Object to the proposal on the basis that it's an inappropriate land use, loss of open space and would have adverse effect on visual amenity.

REPRESENTATIONS

- 24 A total of 21 letters of representation including the community council consisting of 11 objections and 10 letters of support were received and raised the following relevant issues: -

Objections

- Facility not needed
- Inclusion of multipurpose room and kitchen unnecessary
- No parking provided and alternative parking at Primary School not agreed

- Traffic congestion
- Building too big
- Increase in anti-social behaviour
- Construction implications
- Access by emergency services
- Littering
- Fund for demolition and reinstatement of ground should the club fold
- Reduce opportunities for others to use park
- Incorrect name of park
- Issues regarding the lease

Support

- Encouraging exercise
- Health benefits
- Appropriate land use
- Increased use of park

- 25 These issues are all addressed in the Appraisal section of this report apart from the following issues which are not material planning considerations.
- 26 The name of the park has been disputed however the planning permission runs with the redline site area not an address. Issues have also been raised with the legalities of the lease which is not a material planning consideration.

ADDITIONAL STATEMENTS

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| Environment Statement | Not required |
| Screening Opinion | Not required |
| Environmental Impact Assessment | Not required |
| Appropriate Assessment | Not required |
| Design Statement / Design and Access Statement | Submitted |
| Report on Impact or Potential Impact | Submitted |

APPRAISAL

- 28 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of the Council's Local Development Plan (LDP) 2014 and TAYplan are outlined in the policy section above.

Policy

- 29 The site is located within the settlement boundary of Milnathort within an area zoned under Policy CF1 Open Space Retention and Provision. These areas of land have value to the community for either recreational or amenity purposes. Development proposals resulting in a loss of these areas will not be permitted, except in circumstances where one or more of the criteria outlined apply. The criteria applicable to this is (a) which states that where the site is principally used as a recreation resource, the proposed development should be ancillary to the principle use of the site as a recreational resource.
- 30 The building proposed is to be used as a football pavilion which is ancillary to the existing uses within the park. The proposal in terms of the use would be acceptable in policy terms.

Use

- 31 The pavilion will provide home and away changing facilities and a multipurpose room, which includes a kitchen with servery. The agent has stated that the multipurpose room will help bridge a gap in the football team's training regime by creating an area in which the strength and conditioning element can be introduced. The multipurpose room will also act as a meeting point for parents where they can watch their children train and play no matter the weather.
- 32 The footprint of the building is small in comparison to the overall area of the park and therefore there is no significant loss of open space. As a consequence of the proposal the intention is that the football pitch will be used more regularly.
- 33 Concerns have been raised regarding the implications should the football club associated with the development cease operating and that a fund should be in place for demolition of the building and reinstatement of the site. This would not be reasonable for this scale of development and should the current users no longer require the building other uses could be accommodated related to the wider recreational uses of the park.

Design and Layout

- 34 The pavilion is proposed centrally within the park at the west end of the football pitch. A path is proposed to link to the existing paths within the park.
- 35 The building proposed is single storey with a flat roof. The building is 22.5 metres by 9.2 metres giving an overall area of 207 sq metres. The design is simple with large window openings to provide interest on the long elevations. Two different material finishes for the external walls have been indicated on the plans. However the exact details on the finish materials have not been provided and this will need to be conditioned.
- 36 The building will incorporate two sets of changing rooms, multipurpose room, kitchen, store and toilets. Additional externally accessed storage rooms are proposed on the north elevation.

- 37 The building has been set back 5 metres from the pitch and the agent has confirmed that the design of the elevation facing the pitch has been fully considered in relation to ball activity at this end of the pitch.

Residential Amenity

- 38 A previous planning application 13/00814/FLL for the erection of a replacement football/community pavilion was refused as it was considered that there would be a significant loss of amenity by virtue of the close proximity of the proposal to residential properties. The relocation of the building to a more central location within the park seeks to address these concerns.
- 39 The closest residential property is 40 metres from the proposed pavilion (building to building). The site is located within the park which is already used for sports activities and the erection of the pavilion is intended to be ancillary to this use. Environmental Health has no powers to deal with general noise caused by people attending or participating in sporting events. However any potential impact on residential amenity could be mitigated by the addition of conditions related to noise and odour.

Trees

- 40 The pavilion has been located 9 metres from the existing tree belt located to the west. A tree survey has been included to support the location of the pavilion.
- 41 The woodland-belt is dominated by Common Ash tree with the belt considered as category B “moderate desirability for retention”.
- 42 The tree survey states that it should be relatively straightforward to protect this woodland-belt during construction. A Heras fence should be erected (at least) 4 metres to the east of the belt and 4 metres to the south of the woodland block to the north of the site, prior to construction work commencing. This should provide suitable protection for the 27 trees and the other trees further to the north.
- 43 The tree survey also concludes that the proposed pavilion is compatible with the retention of the existing trees. The tree survey includes recommendations for the construction period and a further review period thereafter. This will be added as a planning condition.

Littering/Public Nuisance/Security

- 44 Litter, anti-social behaviour and security have been raised in letters of representation. There is no certainty that the proposed use would give rise to such problems or alter the status quo significantly. However, should this occur, other appropriate authorities such as the police have separate statutory duties to investigate any such problems and to take appropriate action to control these issues where they are found to exist.

Roads and Access

- 45 The site does not have vehicular access to it. However, a footpath is proposed to link to the existing paths which run through the park. The construction period will involve the transportation of building materials and machinery into the park. It is considered that this could be adequately managed to minimise disturbance to park user and a condition will be added to ensure a Construction Method Statement is submitted and agreed.
- 46 There is an existing vehicular access to the park from Church Street which leads to a small hard standing area. It has been suggested that a gate be installed to restrict vehicular access. The access point is outwith the red line site boundary for this application and no vehicular access is proposed for this development. The Planning Authority could therefore not require a gate to be installed.
- 47 The agent has indicated that discussions are underway with Milnathort Primary School to use the school carpark. These discussions are not integral to the acceptability of this proposal and should this arrangement not be agreed ample on street parking is available on the public roads surrounding the park.
- 48 Access for emergency vehicles has been noted as a concern. Although no vehicular access is permitted within the park, access, if required in an emergency can be gained via both Church Street and South Street.

Flooding and Drainage

- 49 The building is to be connected to the public drainage and water supply network.
- 50 There are wider flood issues within Milnathort however a search of the flood risk maps show that there is no flood risk associated with the application site.

Developer Contributions

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

Economic Development

- 52 The economic benefits which it is considered would arise as a result of this proposal include added value to the local economy in terms of employment through the construction and in providing a community facility in the local area.

LEGAL AGREEMENTS

- 53 None required.

DIRECTION BY SCOTTISH MINISTERS

- 54 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

- 55 In conclusion, 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 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 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 commencement of any works on site, all trees on site and those which have Root Protection Areas which fall within the site shall be retained and protected. The measures outlined within the submitted Tree Report (approved document 17/00077/10) shall be implemented as part of the development programme. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 3 Development shall not commence until a detailed Construction Method Statement (CMS) has been submitted and agreed in writing with the Council as Planning Authority. The CMS shall include details on the access route for construction, transportation of building materials and machinery into the park, construction compounds and reinstatement of any damage. The CMS as agreed shall be implemented and maintained throughout the development programme.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 4 The sound insulation and sound transmission properties of the structure and finishes shall be such that any airborne noise from the operations within the premises does not constitute a statutory noise nuisance as determined by the Local Planning Authority.

Reason - In order to safeguard the residential amenity of the area.

- 5 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 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.

Reason - In order to safeguard the residential amenity of the area.

- 6 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 order to safeguard the residential amenity of the area.

- 7 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 residential amenity of the area.

- 8 Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

Reason - In order to safeguard the residential amenity of the area.

- 9 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 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.
- 3 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.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
- 5 No work shall be commenced until an application for building warrant has been submitted and approved.
- 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.

Background Papers: 19 letters of representation
Contact Officer: Joanne Ferguson
Date: 23 February 2017

Nick Brian
Interim Head of Planning

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