

Perth and Kinross Council
Planning and Placemaking Committee – 22 February 2023
Report of Handling by Head of Planning & Development
(Report No 23/67)

PROPOSAL: Formation of hardstanding areas and landscaping, erection of storage shed, gates, alterations to fencing and associated works

LOCATION: King George V Playing Field, Muirs, Kinross

Ref. No: [22/01784/FLL](#)

Ward No: P8- Kinross-shire

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 located within the settlement boundary of Kinross and forms part of a wider area of open space which is in recreational use. The application site forms a linear strip of land located between existing dwellings and a multi-use sports pitch.
- 2 The proposal is to enclose the area by erecting a new fence and gate at either end of the strip, alter the boundary fence to pitch forming a new 1.2m pedestrian barrier rail, formation of a spectator/warm up hardstanding area with dugouts, erection of a storage shed and associated work.
- 3 This application follows on from similar proposal which was refused under delegated powers due to the combination of the removal of trees and the impact on the amenity of the area. Subsequently the application was appealed to the LRB with the review dismissed for the same reasons. Prior to the submission of this application the applicant has discussed the proposal with the Tree Enforcement Officer.

Pre-Application Consultation

- 4 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.

National Policy and Guidance

- 5 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 4

- 6 The National Planning Framework 4 (NPF4) was approved by the Scottish Parliament on 11 January 2023. NPF4 has an increased status over previous NPFs and now comprises part of the statutory development plan.
- 7 The Council's assessment of this application has considered the policies of NPF4 and it is considered that the development proposal accords with the intentions of this document.
- 8 The following sections of the NPF will be of particular importance in the assessment of this proposal:
- Policy 14 Design, quality and place
 - Policy 21 Play, recreation and sport

Planning Advice Notes

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

Development Plan

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

Perth and Kinross Local Development 2019

- 11 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.
- 12 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 14A: Open Space Retention and Provision: Existing Areas
 - Policy 15: Public Access
 - Policy 17: Residential Areas
 - Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy

- Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 56: Noise Pollution
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

Other Policies

Placemaking Supplementary Guidance 2020

- 13 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

- 14 **98/01532/FUL** Full Planning Permission was Approved On 14 January 1999 for Formation of an all weather pitch facility with 3m high fencing and floodlighting
- 15 **20/00288/FLL** Full Planning Permission was refused on 30 May 2020 for Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works with a subsequent review to the Local Review Body dismissed.
- 16 **21/02225/FLL** Full Planning Permission application was withdrawn on 8 April 2022 for Formation of hardstanding area, erection of storage shed, gates, alterations to fencing and associated works.

CONSULTATIONS

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

External

- 18 No external consultations required.

Internal

Estates

- 19 Confirmation that PKC are the landowners and King George V Playing Fields Management Committee are the tenants of the Council.

Environmental Health

- 20 No objection conditions required in relation to noise.

Transportation and Development

- 21 No comments to make on proposal.

Biodiversity/Tree Officer

- 22 No objection to proposal conditions requested in relation to landscaping and tree protection.

Community Greenspace

- 23 Have requested replacement planting and that gates are not locked to restrict access through.

Representations

- 24 9 representations were received. The main issues raised within the representations are:

- Contrary to LDP2
- Loss of public access/area for dog walking
- Loss of a tree
- Impact on biodiversity
- Not in keeping with amenity of the area
- Danger from hockey balls
- Noise

These issues are addressed in the appraisal section, but it should be noted that the safety issue in relation to the balls and fence heights is not a matter for planning and the applicant should be aware of health and safety requirements in relation to the public.

ADDITIONAL STATEMENTS

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

APPRAISAL

- 26 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

- 27 The site is located within the settlement boundary of Kinross within an area of zoned open space. Policy 14 Open Space Retention and Provision seeks to protect areas of open space and development will be supported where it is ancillary to the principal use of the site as a recreational resource. The proposal does not involve a change of use (as the land is in recreational use) the proposal is only for the structures etc so in principle the development complies with Policy 14, together with that of Policy 21 of NPF 4 which also seeks to support proposals for play and sport.
- 28 The application is required for the engineering works, shed and enclosures etc required to supplement the existing use this is considered against Policy 1 Placemaking and Policy 17 Residential Areas. These policies seek to ensure that the residential amenity of existing dwellings is protected from development and the wider visual amenity of the area is maintained. The pitch is located in close proximity to the existing dwellings and with the grassed/tree strip providing a buffer.
- 29 The previous proposal involved the removal of the trees which contributed to the amenity within the area enhancing the open space gap and providing a degree of separation between the field and dwellings. In contrast this proposal retains the trees (1 to be replaced) to address the reasons for refusal. The area as it is currently in recreational use and can be used for the activities noted in the submission although the proposal will provide a formal setting.
- 30 The proposal on balance with the retention of the trees visually retains the character of the landscaped strip whilst the works provides a complementary formal area ancillary to the recreational use of the site.

Design and Layout

- 31 The proposal will enclose the area with gates and a fence along the entire length of the pitch. Within this an area of approx. 560sq metres is to be made level and finished in a permeable hard surface to be used a warm up area. A kerb upstand is proposed along the boundary with the dwellings and around the five trees to be retained and the new one to be planted. A storage shed (7sq m in area) is proposed centrally within the strip.
- 32 The closing of the strip will allow the existing fence (which encloses the west side of the pitch) is to be lowered from 3.6m to 1.2m providing greater visibility for spectators and provide two pitch side dugouts. Two additional sections of the existing perimeter fence of the pitch on the north and south boundary are to be increased to 4.5m in height.

- 33 The works proposed are acceptable in terms of the siting of the small shed, formation of the hardstanding which is softened by the retention of the trees.

Residential Amenity

- 34 There are a number of residential properties within close proximity to the proposed hardstanding area, the existing hockey pitch and playing fields with the gardens area being approximately 11 metres away.
- 35 The area is within recreational use so although the proposal makes the area more user friendly it doesn't change how the area could be currently utilised and the activities which take place on the pitch are not altered. Noise has been raised as an issue however the proposal is for an associated use with the sports pitch so it would not be considered to generate any significant increase in noise as this area can currently be occupied when sports are taking place. Spectators can use the area at present to watch matches through the existing mesh fence.
- 36 Environmental Health have confirmed that their Service has not received any noise complaints with regards to noise from the use of these pitches.
- 37 This development means that spectators could be slightly closer to existing residential properties but it is considered that noise from the public and teams can be controlled, monitored and reacted to through good management of the area through the implementation of a noise management plan (NMP).
- 38 A condition is recommended (Condition 5) for a Noise Management Plan which will be required to layout the proposed procedures, codes of conduct for the public and team members to be implemented for the control of noise from the spectators and teams using as warm up area. The NMP shall state the person responsible to monitor the area and control noise levels as well as any anti- social behaviour that may arise.
- 39 The Environmental Health Officer recommended a lighting condition but no new lights are proposed as part of this application and the existing lighting is covered under a previous permission.

Visual Amenity

- 40 The proposal retains the trees with the removal of one which is to be replaced. The retention of the trees retains the visual buffer that they provide its accepted that they don't screen the development, but they retain an amenity value and soften the impact of the hardstanding. The tree proposed is not considered to be an acceptable replacement so a recommended species and size will be covered by condition.

Roads and Access

- 41 There are no alterations proposed to the existing vehicular access. Concerns have been raised about loss of access through the area. The open space is nearly exclusively within recreational use with two rugby pitches, the hockey

pitch and clubhouse with car park. There is a core path to the south which is not impacted.

- 42 There is an existing path which runs around the pitch however this is not an asserted right of way or core path. The proposal would result in this route being closed however access would still be available through the wider area of open space. Community Greenspace have requested that the gates remain open however this would need to be discussed as part of the lease process rather than controlled through planning. In planning terms there is still access provided as a short detour around the pitch.

Drainage and Flooding

- 43 The site does not lie within an area of flood risk and the hardstanding is porous. The proposal is not considered to raise any drainage or flooding concerns.

Natural Heritage and Biodiversity

- 44 A tree report has been submitted providing an assessment of the trees at the site, advice on the potential impact of the proposed development on the trees, mitigation measures to safeguard the trees, and recommendations for tree works, and planting recommendations.
- 45 The Tree Officer has examined the plans and submissions, and is content that the proposed works should, if executed appropriately safeguard the amenity provision afforded by the trees at the site. The report advises that 1 x rowan tree be removed.
- 46 It is considered however that an Arboricultural Method Statement be submitted that clearly sets out the sequence of site operations to be undertaken, tree protection measures, tree works, root pruning (if roots encountered), soil removal, hard landscaping, site storage, plant & machinery storage, type of plant to be used, pre-start agreement with contractors, concrete preparation. (Condition 3)
- 47 In relation to the proposed planting – the landscape plan has proposed 1 x *Griselinia littoralis*, and a hedgerow of *Viburnum tinus* at the boundary wall, both evergreen shrubs. Community Greenspace recommended that 3 trees be planted however these would need to be out with the site which could not be controlled by condition. It would be preferable instead to plant a heavy standard size, rootballed, broadleaf tree in place of the rowan, rather than the *Griselinia*, such as, rowan, *Sorbus aucuparia* *Hupehensis*, or lime, *Tilia cordata* Greenspire, or Turkish hazel, *Corylus colurna*. This will be covered by condition (Condition 4).
- 48 The development proposal and landscape scheme submitted takes account of the existing trees at the site, and should not adversely impact their future viability, subject to approval of an Arboricultural Method Statement.
- 49 Only one tree is proposed for removal. The biodiversity opportunities that the tree and area can provide are noted as a concern in representations

particularly in relation to birds, red squirrels and bats. No Ecology Survey has been submitted with the proposal. The Biodiversity Officer considers (from images supplied) that there is likely to be little opportunities for roosting bats due to the age, size and overall good condition of the trees. Therefore a survey isn't considered necessary.

Developer Contributions

- 50 The developer contributions guidance is not applicable to this proposal.

Economic Impact

- 51 Is it considered that the development will provide improved facilities for the hockey club and some opportunities for local construction companies.

VARIATION OF APPLICATION UNDER SECTION 32A

- 52 This application was not varied prior to determination.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 53 Not 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 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.
- 56 Accordingly the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

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 commencement of development an Arboricultural Method Statement (AMS) be submitted and agreed in writing with the Council as Planning Authority. The AMS shall clearly sets out the sequence of site operations to be undertaken, tree protection measures, tree works, root pruning (if roots encountered), soil removal, hard landscaping, site storage, plant & machinery storage, type of plant to be used, pre-start agreement with contractors, concrete preparation. The statement as agreed shall be implemented in full as part of the development of the site.

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

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 replacement of the propsoed *Griselinia littoralis* with a heavy standrad size, rootballed, broadleaf tree such as, rowan, *Sorbus aucuparia* Hupehensis, or lime, *Tilia cordata* Greenspire, or Turkish hazel, *Corylus columna*. 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 - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

5. Prior to the commencement of the development a Noise Management Plan shall be submitted for the written approval of the planning authority. The plan shall include all sources of noise associated with the use of the spectator and team warm up area including user noise, including noise from antisocial behaviour, activity noise and the measures that will be put in place to minimise and/or control noise. The plan shall be reviewed on a regular basis or, following receipt of a justified complaint or at the request of the planning authority. Once the Noise Management Plan has been approved, it shall be fully implemented for the lifetime of the development.

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

6. In the event of a justified noise complaint being received by the Council the operator shall, at its own expense, employ a consultant approved by the Planning Authority to carry out a noise assessment. The assessment will be carried out to an appropriate methodology agreed in writing with the Planning Authority. A scheme of any proposed noise mitigation shall be included with the noise assessment, specifying timescales for the implementation of the scheme, and shall be submitted to the Planning Authority with 28 days of the assessment. The mitigation scheme shall thereafter be implemented in accordance with the approved scheme and timescales.

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

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 required.

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. 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.
4. 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.

5. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.

Background Papers: 9 letters of representation
Contact Officer: Joanne Ferguson
Date: 10 February 2023

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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