

PERTH AND KINROSS COUNCIL

Property Sub Committee

10 January 2022

PETITION RELATING TO CLASS 3 BUSINESS USE AT RIE-ACHAN ROAD CAR PARK, PITLOCHRY

Report by the Executive Director (Communities)
(Report No. 22/1)

PURPOSE OF REPORT

This briefing report has been prepared for the Sub Committee outlining the issues raised in the petition and the preliminary response to these issues. The principal petitioner will be provided with a copy of this report.

1. BACKGROUND

- 1.1 The Rie-Achan Road car park in Pitlochry is a Council controlled car park which currently provides 78 income generating spaces, 12 electrical vehicle charging points, 2 disabled bays, 5 bus and 11 coach spaces. It is located immediately adjacent to Pitlochry Railway Station.
- 1.2 A planning application (ref: **20/01967/FLL**) for a change of use of part of the car park for a restaurant was submitted in late December 2020, despite the applicant having no legal right or interest in respect of the land in question. Whilst unusual, this is acceptable in terms of planning legislation. The Planning & Development Management Committee considered the application on 7 April 2021 and agreed (by a majority of 7 to 5) to set aside the officer recommendation and to grant planning permission subject to the applicant entering into a Section 69 Legal Agreement to make a financial contribution (upon completion of missives to lease) to replace 12 parking spaces elsewhere in the town.
- 1.3 At the time of writing, this Legal Agreement has not been concluded and therefore the planning consent has not yet been issued. It is understood that Legal Services issued a draft agreement to the Applicant's agents in June 2021.
- 1.4 The Rie-Achan Road carpark is owned by the Council. The decision of the Planning & Development Committee, although part of a distinct process, required officers to seek a further decision from the Council, this time acting in its capacity as the landowner, as to whether it was prepared to lease part of the car park land for Class 3 Business use. Accordingly a report was presented to the Property Sub Committee (report 21/92 refers) on 14 June 2021. Given the Council's duty to deliver best value, any lease opportunity had to be put to the market. Officers therefore recommended that any lease opportunity be advertised. At the meeting, four deputations were heard from

members of the public, including Mr Fergus McCallum, the present petitioner, who also submitted the Planning Application **20/01967/FLL**

- 1.5 Having considered the matter the Committee agreed (by a majority of 5 to 2) not to support the officer recommendation and therefore not to proceed with leasing any part the site for any Class 3 Business use.

2. PETITION AND RESPONSE

- 2.1 The petition (containing 1,185 signatures as of 13 December) was received on 4 October 2021 seeking support for the proposal which was the subject of the planning application.

- 2.2 Clarification on the purpose of the petition was provided on 13 October:

“The petitions purpose is to indicate that over 500 PKC residents and over 1157 people in total are aware of the project and that it won’t impact parking and they want the matter presented to the committee again so they can be aware of these facts.”

- 2.3 It should be noted that the online petition states:

“We have planning permission on a site at the very rear of the Rie-Achan Car Park next to the railway track”.

This is not correct as the granting of planning permission is wholly subject to the conclusion of a Legal Agreement defining a specific financial contribution to cover the cost of replacing 12 lost spaces elsewhere.

The petition goes on to state that:

“Our carriages will take up 12 of the parking spaces and we have agreed to replace, at our expense, those spaces and fund all the necessary changes to the Car Park that will allow the carriages to be sited there.”

Although the intent to make a financial contribution is not disputed, the legal position is that there is, as yet, no agreement in place.

- 2.4 From the petitioner’s perspective, the desired outcome is for the Property Sub Committee to:

“rehear the matter with the facts that no parking loss can be achieved and that both supporters and objectors are heard”.

As regards the latter point whilst, unlike the planning process, there is no mechanism for submitting objections, Standing Orders do permit any member of public to submit a request to make a deputation in relation to any item of public business being considered by Council/committee. It is then for the Council/committee to agree(or not) to hear any deputation.

It is important to note however that the Property Sub-Committee was not being asked to consider the merits of Petitioner's proposal (to which the reference to the 12 parking spaces is pertinent), nor was it being asked to consider leasing land in the car park to the Petitioner. It was being asked whether it agreed to part of the car park being used for Class 3 Business use and if so, to then advertise such an opportunity and invite proposals for any interested party (which would obviously include the Petitioner).

- 2.5 The principle of the loss of 12 spaces, pertinent to Planning Application **20/01967/FLL** has already been accepted by the Planning & Development Management Committee, subject to the cost of their replacement elsewhere being met by the applicant. It should also be noted however that officers are presently instructed by Council to seek an overall increase in the number of parking spaces within the town. This has not been progressed primarily due to the impact of COVID and pressure of other business. Officers can therefore provide no assurance as regards the adequacy, or otherwise, of parking provision until a wider survey of car park provision in Pitlochry is completed (likely Spring 2022).

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 A petition has been submitted asking that the Property Sub-Committee reconsider their decision of 14 June 2021 not to lease part of the Rie-Achan Road car park for a commercial use.
- 3.2 Members of the Property Sub-Committee are now required to determine what, if any, action they wish to take in response to that petition.
- 3.3 In reaching its decision the Committee is invited to note that:
- (1) the motion which was put to and agreed by majority at the Property Sub-Committee in June was simply "not to proceed with leasing the site for Class 3 Business use". This was not subject to or dependent upon the parking provision. Had parking been the determining factor this could have been articulated within the motion or by way of amendment.
 - (2) at the time of writing, the Legal Agreement required in respect of the Petitioner's planning permission, has not been concluded and therefore as yet, there is no binding agreement in place regarding the replacement of the required 12 parking spaces
 - (3) officers are currently working to a Council instruction to increase parking provision within the town
 - (4) there has been no material change regarding increased parking provision across Pitlochry since the Committee's decision in June 2021
 - (5) officers can provide no advice or assurance as regards the adequacy of parking provision in Pitlochry until parking survey work is completed (Summer 2022).

Author

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Approved

Name	Designation	Date
Clare Mailer	Depute Director (Communities)	22 December 2021

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	None
Corporate Plan	None
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	None
Risk	None
Consultation	
Internal	Yes
External	None
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan/Single Outcome Agreement

1.1 The consideration of this petition contributes to the following Perth & Kinross Community Plan / Single Outcome Agreement priority:

(ii) Developing educated, responsible and informed citizens

Corporate Plan

1.2 The Delivery Programme contributes to the achievement of the following Council's Corporate Plan Priority:

(ii) Developing educated, responsible and informed citizens;

2. Resource Implications

Financial

2.1 None.

Workforce

2.2 None.

Asset Management (land, property, IT)

2.3 None.

3. Assessments

Equality Impact Assessment

3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

3.2 The consideration of this petition was considered under the Council's Integrated Appraisal Toolkit. No impacts on equality were identified and so a full Equality Impact Assessment was not required.

Strategic Environmental Assessment

3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.

3.4 The consideration of this petition does not fall within the scope of the SEA regulations.

Sustainability

3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:

- in the way best calculated to delivery of the Act's emissions reduction targets;
- in the way best calculated to deliver any statutory adaptation programmes; and
- in a way that it considers most sustainable.

3.6 The consideration of this petition of itself has no impacts on sustainability.

Legal and Governance

3.7 The Head of Legal & Governance was consulted during the preparation of this report.

Risk

3.8 None.

4. Consultation

Internal

- 4.1 The Development Management, Estates & Commercial Investment and Traffic & Network Management Teams were consulted.

External

- 4.2 There were no external consultations.

5. Communication

- 5.1 None.

2. BACKGROUND PAPERS

- 2.1 Report 21/92 (Property Sub Committee)
Report 20/01967/FLL (Planning & Development Management Committee)