

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

**Variation of condition 5 (roads and access) of permission 09/01345/IPM (mixed use development including residential, business, nursing home and hotel) at Glenisla Golf Club, Alyth, Blairgowrie**

Ref. No: 16/01595/IPM  
Ward No: N2 - Strathmore

**Summary**

This report recommends approval of an application made under section 42 of the Act for the variation of a roads and access condition (condition 5) which was imposed on a planning in principle consent for improvements to golf club/course, erect 9 business units, hotel, nursing home and residential development at Glenisla Golf Course, Alyth, with the Council issuing a direction to clarify the timescales for a) the submission of the matters specified and b) the development to commence.

**BACKGROUND AND DESCRIPTION**

- 1 The application site covers an area of approx. 51.29 ha of land at the Glenisla Golf Club, a former public golf course located to the east of Alyth and which closed in October last year as an independent going concern, but has since been leased to a neighbouring golf club / local business on short 1 year leases. The site can be essentially divided into two parts, east and west. The western part is currently occupied by several golf holes associated with the course, whilst the eastern part of the site largely consists of agricultural fields.
- 2 In June 2010, the Council granted outline planning permission for the improvements to the existing golf club/course, the erection of 9 business units, the erection of a hotel, the erection of a nursing home and a residential development including a retirement village. A further planning application to only vary condition 1 (timescales) of the 2009 permission to allow for an extension of time for the submission of the required reserved matters was approved in 2013 (13/01114/IPM).
- 3 In 2014, an application for the approval of matters specified by condition (14/00282/AMM) relating to the 1<sup>st</sup> phase of the development was refused by the Development Management Committee on the grounds that the planning application failed to,
  - a) provide precise phasing details of the implementation of the development
  - b) provide an acceptable Transport Assessment
  - c) provide a road layout which is acceptable to the Council as Planning Authority

- 4 This current planning application seeks to vary a roads condition which was attached to the original planning consent via a planning application made under Section 42 of the Planning Act. The original condition which was imposed on the extant planning consent (condition 5) read as:-

*"Prior to the occupation of the first residential unit, or the commencement of use of any of the commercial aspects, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Council as Planning Authority"*

- 5 The applicant has indicated that they wish the above condition amended to read,

*"Prior to the commencement of construction within each phase of the development, all matters regarding access, car parking, road layout, design and specification within that phase, including the disposal of surface water, shall be designed in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Council as Planning Authority. Thereafter, all approved works shall be completed within a timescale agreed with Perth and Kinross Council."*

- 6 Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates that in this type of application "the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted". Nevertheless, it is the case that a permission relating to an application made under Section 42 is considered to be a new permission in its own right, and the need to impose other conditions / advisory notice on the decision notice remains.

- 7 It should be noted that during the course of this planning application, the site has changed ownership and the Glenisla Golf Club was closed under the previous ownership. The golf holes and associated sheds have now been leased out over a short term period to the neighbouring Alyth Golf Club, and the clubhouse has been leased to a local business, again on a short term lease. The new owners of the site (also the current applicant) have indicated to the Council that it is their full intention to re-open the golf club under a 'Glenisla' branding as soon as practically possible when it can function as a viable business. The applicants also fully acknowledge that it is regrettable that this development has not moved forward in recent years; however they have indicated to the Council a willingness to submit a masterplan for the whole site for approval during 2017 as well as detailed plans for the 1<sup>st</sup> phase of development - which will include non-residential elements. The applicant has suggested that they are aiming to commence development on site sometime during 2018. Thereafter, the applicant envisages a 3-5 year timescale for the completion of the development.

- 8 As part of this planning application, no details of the proposed phasing have been lodged in a formal context, however the applicant has indicated that in the short term they are looking to obtain an initial detailed consent for a far larger phase 1 scheme than the one previously refused under 14/00282/AML and which comprises not just mainstream housing but affordable units, a care home, care focused retirement units and small business units as well improvements to the (public) golf course and clubhouse – which will all be part of a wider business plan which will ensure that the non-residential land uses associated with the development are deliverable. Once the initial ‘core’ first phase has been developed, further phases will then be advanced.

## **PROCEDURAL MATTERS**

### **Pre-application Consultation (PAC)**

- 9 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 which came into force on the 30 June 2013, removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a ‘major planning application’) made on, or after the 3 February 2013.

### **Environment Assessment**

- 10 Deciding whether or not an Environmental Statement should be re-submitted as a result of a change or modification to an approved development is a decision which is made by the relevant competent, determining authority, which in this case is the Council. As there are no statutory provisions or procedures on this subject, it is reasonable that the Council should make the decision on whether or not a new environmental statement is required for this application after consideration of the following two questions.

*a) Is the development proposed significantly different that the original environmental statement needs to be revised or added too?*

*b) Are the environmental effects of the development so significantly different as to invalidate the original environmental statement and consultee responses?*

- 11 As the answers to both questions, is ‘no’, it is the view of the Council (as the component Authority) that a new or updated Environmental Statement is not required.

### **Applicant Supporting Case**

- 12 Whilst this application is for the amendment of a road related planning condition, the applicant has taken the opportunity to update the Council on a number of background matters relating to what has occurred/happening on the site since a) the closure of the course and b) the change in ownership.

- 13 Since the closure of the Glenisla Club, the clubhouse and farmhouse have been leased to a local businesswoman for a licensed restaurant/coffee house, local produce and craft shop and a B&B. This is on a short lease of 1 year, albeit she will have options to extend this as the applicants work up their masterplan and move towards a detailed planning submission. This short term let ensures that the buildings are maintained and are kept in an active use for the near future. It is my understanding that the business is already recruiting staff, and is investing in the building and surrounding area and is open to the general public.
- 14 The golf holes and greenkeepers sheds have been leased to the neighbouring Alyth Golf Club, again for 1 year with options to extend. The golf holes are to be open to Alyth members, ex Glenisla Members and the general public in the very near future.
- 15 The applicant has informed the Council that a local care provider has been secured as a partner for the proposed development, and that negotiations are advanced with regards to the provision of a new-build care home which would provide staff and services to residents of the proposed assisted living units, and would generate permanent employment and have significant economic benefits to the area.
- 16 The applicants have also indicated that they have been in positive discussions with engineers to secure site infrastructure investment from utility/power companies whereby eco-friendly power may be secured (e.g. Biomass and solar), which will assist funding models for investment in the project. With the land transferred into a new company, the applicants have indicated that they have sourced the initial development funding for the project which appears to be significant progress bearing in mind the existing buildings/land owned on site have been leased out, a care provider in place, and site infrastructure investment is progressing as above.
- 17 In addition to housing for sale to the general public and the elderly with a care need, due to the number of golf courses available within the local area, the applicants are looking at the potential to expand upon the tourism element of this development. This is subject to further discussion with the Council and the end users but would look to provide local accommodation, employment and business opportunities for the local community.

- 18 In summary, the applicant has indicated that it is their intention to promote and progress the extant mixed use development as quickly as possible from here on in, which will enhance the local community providing a range of housing, care provision, leisure/golf, food & beverage, holiday accommodation and business facilities, which in turn will help to generate significant investment in the local area and permanent employment. They are looking to improve/deliver the uses set out within the original planning permission and other uses which the applicants consider are all complementary to those already explicitly approved and these are,

- Bungalows/units for the elderly and retired with options for care provision in the home (homes to have specific features for care if required);
- Family homes for sale to the general public, with an agreed proportion of affordable units;
- A Care Home;
- Leisure/commercial business units, possibly providing facilities for residents as occupancy grows;
- Operating golf course available to residents and to the public;
- Golf Clubhouse with bar/restaurant available to residents and to the public; and
- Communal/landscaped areas, bowling green etc

## **NATIONAL POLICY AND GUIDANCE**

- 19 The Scottish Government expresses its planning policies through the National Planning Frameworks, the Scottish Planning Policy (SPP), National Roads Development Guide, and Planning Advice Notes (PAN).

- 20 Of specific relevance to this planning application are,

### **Scottish Planning Policy 2014**

- 21 The Scottish Planning Policy (SPP) was published in June 2014 and 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.

- 22 Of relevance to this application are,

- Paragraphs 74 - 83, Promoting Rural Development
- Paragraphs 92 – 108, Supporting Business & Employment
- Paragraphs 109 - 134, Enabling Delivery of New Homes
- Paragraphs 135 – 151, Valuing the Historic Environment

### **Planning Advice Note 43 (Golf Courses and Associated Developments)**

- 23 States that the location, siting and design of new courses and facilities will typically present developers, planning authorities and other interested parties with a wide range of issues to consider. Not least amongst these will be the policies in development plans dealing with the countryside and green belts. To assist that consideration, this Planning Advice Note:
- provides background information;
  - sets out the locational and land-use context of Scottish Sports Council research;
  - restates the existing national planning policy framework;
  - identifies the planning issues associated with golf courses and related developments; and
  - gives advice on development plan policies

### **Planning Advice Note 67 (Housing Quality)**

- 24 Designing Places, published November 2001, sets out the Scottish Government's aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how Designing Places should be applied to new housing.

### **PAN 2/2011 (Planning and Archaeology)**

- 25 This PAN provides advice to planning authorities and developers on dealing with archaeological remains.

### **Circular 4/1998 - The use of conditions in planning permissions**

- 26 This circular states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The guidance establishes that conditions should meet the following six tests, requiring that they be: necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.
- 27 The Circular also deals with the 'Renewal of permissions before expiry of time limits in para. 52. This states that developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under part 3 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 applications for such renewals may be made simply, referring to the existing planning permission, although the Planning Authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:
- a. there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant road considerations or the issue

by the Government of a new planning policy which is material to the renewal application);

- b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c. the application is premature because the permission still has a reasonable time to run.

### **Circular 3/2013 – Development Management Procedures**

- 28 This circular provides advice on dealing with Section 42 applications in ‘Annex I: Applications for Planning Permission under Section 42 of the Act’. This confirms in paragraph 2a) that the effect of granting permission for a section 42 application is such that a new and separate permission will therefore exist for the development proposed with different (or no) conditions attached. To this end, previous planning permission therefore remains unaltered by, and is not varied by, this decision on the section 42 application.
- 29 The circular goes on to state that the duration of the new permission is specified in the Act. Alternatively, authorities may direct that a longer or shorter period applies, and where a new permission is granted, the new duration will be as specified in Section 58 or 59 of the Act. However, it is possible for the Council as Planning Authority to direct that an alternative time period applies which maybe appropriate for larger developments.

### **DEVELOPMENT PLAN**

- 30 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012**

- 31 The vision set out in the TAYPlan states that

*“By 2032 the TAYplan region 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 and visit and where businesses choose to invest and create jobs.”*

### **Policy 1- Location Priorities**

- 32 Focuses the majority of development in the region’s principal settlements and prioritises land release for all principal settlements using the sequential approach in this Policy; and prioritise within each category, as appropriate, the reuse of previously developed land and buildings.

## **Policy 2- Shaping Better Quality Places**

- 33 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation.

## **Policy 3- Managing TAYplan's Assets**

- 34 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

## **Perth and Kinross Local Development Plan 2014**

- 35 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.
- 36 Within the LDP the site lies outwith the settlement of Alyth where the following policies are applicable:

### **Policy PM1A – Placemaking**

- 37 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**

- 38 All proposals should meet all eight of the placemaking criteria.

### **Policy PM1C – Placemaking**

- 39 For larger developments (more than 200 houses or 10 ha) the main aim is to create a sustainable neighbourhood with its own sense of identity. Neighbourhoods should seek to meet the key needs of the residents or businesses within or adjacent to the neighbourhood, i.e. local shopping, recreation, recycling etc. In most cases this will best be achieved by the development of a Masterplan.

### **Policy PM2 - Design Statements**

- 40 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.



### **Policy PM3 - Infrastructure Contributions**

- 41 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 42 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy RD3: Housing in the Countryside**

- 43 The Council will support proposals for the erection, or creation through conversion, of single houses and groups of houses in the countryside which fall into at least one of the following categories: (a) Building Groups (b) Infill sites (c) New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance (d) Renovation or replacement of houses (e) Conversion or replacement of redundant non-domestic buildings (f) Development on rural brownfield land. This policy does not apply in the Green Belt and its application is limited within the Lunan Valley Catchment Area to economic need, conversions or replacement buildings.

### **Policy RD4: Affordable Housing**

- 44 Residential development, including conversions, consisting of 5 or more units should include provision of an affordable housing contribution amounting to an equivalent of 25% of the total number of units proposed. Whenever practical, the affordable housing should be integrated with and indistinguishable from the market housing. If the provision of the affordable housing on-site is not possible the Council will seek off-site provision. Failing that, and in appropriate circumstances, a commuted sum will be required from developers. The details of provision, including tenure, house size and type, will be a matter for agreement between the developer and the Council and based upon local housing need and individual site characteristics.

### **Policy CF1: Open Space Retention and Provision**

- 45 Council will seek the provision of appropriate areas of informal and formal open space that is accessible to all users as an integral part of any new development where existing provision is not adequate. Where it is physically impossible or inappropriate to meet the open space provision onsite, consideration may be given to the provision of a suitable alternative. In areas where there is an adequate quantity of accessible open space in a locality, a financial contribution towards improvement or management of existing open space may be considered an acceptable alternative.

### **Policy HE1A: Scheduled Monuments**

- 46 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

### **Policy HE1B: Non-Designated Archaeology**

- 47 The Council will seek to protect areas or sites of known archaeological interest and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ. Where, in exceptional circumstances, preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to the granting of planning permission, will be required to make provision for the survey, excavation, recording and analysis of threatened features prior to development commencing. If discoveries are made during any development, work should be suspended, the local Planning Authority should be informed immediately and mitigation measures should be agreed.

### **Policy NE1: Environment and Conservation Policies**

- 48 Development which would affect an area designated as being of local nature conservation or geological interest will not normally be permitted, except where the Council as Planning Authority is satisfied that: (a) the objectives of designation and the overall integrity of the designated area would not be compromised; or (b) any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

### **Policy NE3: Biodiversity**

- 49 The Council will seek to protect and enhance all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species. The Council will apply the principles of the Tayside Biodiversity Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) when making decisions about all applications for development. Proposals that have a detrimental impact on the ability to achieve the guidelines and actions identified in these documents will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated.

### **Policy EP3C - Water, Environment and Drainage**

- 50 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **Policy EP5: Nuisance from Artificial Light and Light Pollution**

- 51 The Council's priority will be to prevent a statutory nuisance from occurring first and foremost. Consent will not be granted for proposals where the lighting would result in obtrusive and/or intrusive effects. Proposed lighting equipment should comply with current standards, including approved design standards. The Council may secure the regulation of lighting installations and their maintenance through the use of conditions attached to the granting of planning permission.

### **Policy EP8: Noise Pollution**

- 52 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation.

### **OTHER COUNCIL POLICIES**

#### **Developer Contributions and Affordable Housing (April 2016)**

- 53 This document sets out the Council's policy in relation to Developer Contributions in relation to Primary Education, A9 Junction Improvement and Transport Infrastructure, as well as Affordable Housing provision.

#### **Housing in the Countryside Guide 2012**

- 54 This is the most recent expression of Council policies towards new housing in the open countryside.

### **SITE HISTORY**

- 55 An outline planning consent was granted in 2010 for improvements to the existing golf clubhouse/course, the erection of 9 business units, the erection of a 3\* hotel, the erection of a nursing/care home and a residential development including a retirement village when the Full Council approved planning application 09/01345/IPM contrary to the officer recommendation. That application was considered by the Council to be a significant departure to the then Development Plan, but the potential economic benefits which the development would bring to the area were considered to be a significant material consideration which justified a departure from the Development Plan. As the development was at the time considered to be a significant departure from the Development Plan, the application was referred to the Scottish Government who subsequently indicated that they did not wish to 'call-in' the application and that the Council was free to issue an approval decision. A subsequent planning application made under S42 of the Planning Act was approved by the Development Management Committee in September 2013 (13/01114/IPM) and issued without any further referral to the Scottish Government. That planning application amended the time condition on the

previous planning consent to allow the applicant a longer time to submit their application(s) for approval of matters specified. Following on from that approval, an application for the approval of matters specified by condition relating to the erection of 18 dwellinghouses and garages, formation of access and associated works (Phase 1) was refused by the Development Management Committee in 2015, in line with the officer's recommendation. The reason for that refusal was principally because that submission was not in accordance with the requirements of conditions imposed on the initial outline planning permission.

## **EXTERNAL CONSULTATIONS**

- 56 None undertaken.

## **INTERNAL COUNCIL CONSULTATIONS**

- 57 **Transport Planning** have commented on the proposal and raised no objection to the proposed variation of the road related condition.

## **REPRESENTATIONS**

- 58 Two letters of representation have been received, objecting to the proposal. The main issues raised within the objections relate to road related issues and the lack of landscaping which has occurred since the previous approvals.
- 59 In relation to roads issues, specific details of the junction and access points have yet to be approved and these will be advanced once detailed plans are lodged for the various phases. It will be a requirement of this permission that all matters relating to road matters will be in accordance with Council standards. With regards to general traffic movements within the area, the local road network was previously considered to be acceptable in principle to accommodate the proposed development and this remains the case. It will however be a requirement of this permission that updated Traffic Statements will be required for each phase of the development which takes into account all modes of travel.
- 60 With regards to the lack of landscaping proposals since the previous approvals were granted, under the terms of the previous permissions there was no requirement for the (then) applicant to undertake advance landscaping / planting proposals. However, it will be a requirement of this permission that a detailed landscaping schedule will be required for the 1<sup>st</sup> development phase as well as strategic, structural landscaping for the wider site as part of the early approvals of the detailed matters.

## 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	Not required
Report on Impact or Potential Impact	Background information submitted by the applicant.

## APPRAISAL

- 62 Section 42 of the Town and Country Planning (Scotland) Act 1997 enables the determination of applications to develop land without compliance with conditions previously attached. The legislation specifies that on such an application the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 63 Taking the above into account, the assessment of this application therefore only relates to the roads related condition stipulated in condition no. 5 of the extant planning permission, and bearing in mind the grant of any permission would result in a new permission, whether or not this is acceptable.
- 64 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan 2012 and the Local Development Plan 2014.
- 65 To this end, the determining issue as to whether or not the time period should be extended is ultimately whether or not the policy framework of the Council has materially changed enough for the Council to consider a different recommendation. For reasons stated below, whilst I consider there to be a material change in Council policy since the determination of both the 2009 and 2013 applications took place, the overall themes, aims and aspirations of Council policy have not altered. To this end, I therefore ultimately recommend that this application is approved, with some variations to the timescales of the submission of the reserved matters and the commencement of development to align these matters to other major developments which have recently been approved by the Council, and to take into account the fact that the original decision to approve this development was by the Council in 2010.

## Policy

- 66 The planning application for improvements to the golf club/course, the erection of 9 business units, a hotel, a nursing home and a residential development is considered to be unsustainable in this rural location and (still) contrary to the Development Plan and National Planning Guidance. However, an application for this development was approved by the Council in 2010 on the basis that the perceived economic, employment and tourist related benefits which the proposal would bring to the local area outweighed the conflict with specific land use planning policies.
- 67 In terms of the Development Plan, since the last approval in 2013 the Council has now adopted its LDP 2014. The LDP acknowledges the existence of the extant consent and indicates that the proposal could provide for additional employment and housing opportunities, potentially 50 homes during the life of the Plan. In terms of this particular site and the relevant policies, the content of former Eastern Area Local Plan 1998 (which the application was originally principally assessed against in 2009) and the current adopted LDP are extremely similar with no significant changes. It is also the case that whilst there have been some changes to National Planning Policies and Guidelines since 2013, these changes do not have significant implications in terms of this development.
- 68 Whilst it remains the case that I still have reservations regarding the nature of the proposal, and its sustainability in this location I consider the relatively recent decision by the Council to approve the original development to be a material planning consideration which still carries a degree of weight, particularly bearing in mind any notable changes in Council, and National planning policies during that time.
- 69 This development is intrinsically linked to both the leisure and housing industries, both of which have been significantly affected by the recent (and ongoing) economic downturn and to this end, it is my view that there is a genuine reason why this development has not commenced. The recent closure of the course was due to the financial difficulties associated with the Glenisla GC, and whilst it is welcome that a neighbouring club has leased the golfing assets, there are clearly issues with the viability of the Glenisla brand as it was previously. However, it now appears that progress on the mixed used development of the site is starting to materialise, and during the life of this new permission I do not consider it unreasonable for the Council to expect further progress to be made. If this is not the case, and in the absence of any significant change in Council policy, I would recommend that any further planning applications on this site which seek to extend the life of this permission should be reassessed fully against the relevant Development Plan and National Planning Policies of the time, and that limited 'weighing' should be offered to the existence of former permissions.

## **Roads Condition**

- 70 The proposed rewording of the original roads condition is fairly minor in its nature, but it does propose to link in the acceptability of all road related matters to each development phase of the development which is not unreasonable. It will remain the case that with each application for a new development phase, an updated Transport Statement will be requested from the applicant. To this end, and in terms of the specifics of the rewording of this condition I have no concerns and this view is shared by my colleagues in Transport Planning.

## **Remaining Conditions**

- 71 As indicated previously, the Act stipulates that when considering an application made under section 42 of the Act, the Planning Authority shall consider only the question of the condition(s) subject to which planning permission should be granted. Nevertheless, it is the case that a permission relating to an application made under Section 42 is considered to be a new permission in its own right, and the need to impose other conditions / advisory notice on the decision notice remains. To this end, the other conditions which were attached to the initial consent relating to,

- Ecology / Bio-diversity
- Construction Method Statements
- Transport Statements
- Air quality
- Drainage
- Flooding
- Developer Contributions
- Affordable Housing
- Archaeology

- 72 will remain largely unaltered and shall be reapplied to this permission, the exception being the condition relating to the phasing. This condition (condition 1 of this permission) has been slightly reworded so that it aligns itself with similar conditions which have been imposed on large development sites which may be developed in 'phases' of development. Whilst not a condition as such, the timescales for a) the submission of the required reserved matters and b) the development commencing have also been amended and the revised timescales are indicated in a direction made by the Council.

## **DEVELOPER CONTRIBUTIONS**

### **Affordable Housing**

- 73 A condition requiring compliance with the Council's policies on Affordable Housing will remain.

## **Transport Infrastructure**

- 74 The site lies outwith the catchment area for Transport Contributions, so no contributions in relation to Transport Infrastructure will be required.

## **Primary Education**

- 75 A condition requiring compliance with the Council's policies on Primary Education development contributions will remain.

## **ECONOMIC IMPACT**

- 76 Due to the nature of the proposal, the development if implemented has the potential to offer a significant, positive impact on the local economy (both during the construction phase and once operational) and also on the tourist sector associated with the area.

## **LEGAL AGREEMENTS**

- 77 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 78 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**

- 79 Whilst I acknowledge that there has been a change in Council policy since the 2009 planning decision was made (and indeed the 2013 one), the content of the current policies are extremely similar to those which were pertinent when the previous applications were determined. Bearing this in mind and the fact that there has been no change in the site's physical characteristics and no significant change in either Local or National Planning Policies since the last approval was made in 2013, I have no objections to the proposed variation in condition 5 of the 2009 permission which now effectively results in a new permission. I do however intend to impose a reduced timescale (via the use of a Direction) for the submission of the detailed matters relating to the 1<sup>st</sup> phase of development and for the approval of the wider masterplan for the full site which will hopefully stimulate this development.



## **RECOMMENDATION**

### **A Approve the planning application subject to the following directives and conditions:**

#### **Directives**

- 1 Perth and Kinross Council, under section 59 of the Town and Country Planning (Scotland) Act 1997 shall substitute subsections (2)(a) and (b) of section 59 of the Act with the following text as it is considered appropriate by the Planning Authority in this instance, due to the scale of the development, the proposal's relationship with the current Development Plan and the fact that the initial planning permission was granted in 2010.
  - (a) An application for the approval of a) a master plan for the entire development site and b) all matters specified in conditions for the development of the first development phase, shall be made before the expiration of 18 months from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case an application for the approval of all such matters specified in conditions must be made within 6 months of the date of such refusal or dismissal. The approved development shall thereafter commence not later than the expiration of 2 years from the date of this grant of planning permission in principle or 1 year from the final approval of matters relating to the first development phase, whichever is later.
  - (b) With the exception of a) a master plan for the entire development site and b) all matters specified in conditions for the first development phase, the remainder of the development that is subject to this planning permission in principle shall lapse unless a further application or applications for approval of the matters specified in all condition(s) attached to this grant of planning permission in principle across the entire site has been approved before whichever is the latest of:
    - (i) the expiration of 7 years from the date of this grant of planning permission in principle;
    - (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval of matters specified in conditions was refused;
    - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

#### **Conditions**

- 1 That no development shall be undertaken in any phase unless a detailed phasing programme and masterplan outlining the delivery strategy for the proposed land use, open space and roads infrastructure across the entire application site has been submitted to, and approved in writing by the Council as Planning Authority via a formal 'Matters Specified in Conditions' application.

*Reason - In order to ensure development is progressively accompanied by appropriate associated infrastructure, and to inform the timescale for submission of further applications for 'Matters Specified in Conditions' specified in the planning authority's direction stated in this notice.*

- 2 Notwithstanding the requirements of condition 1, the development of each individual phase shall not commence until the following specified matters have been the subject of a formal planning application for the approval of the Council as Planning Authority: the siting, design and external appearance of the development, the hard and soft landscaping of the site, all means of enclosure, means of access to the site, vehicle parking and turning facilities, levels, drainage and waste management provision

- 3 The residential layout and the position of the nursing home is not approved.

*Reason - This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006*

- 4 The number of mainstream residential units shall not exceed 216.

*Reason - This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.*

- 5 Prior to the commencement of construction within each phase of the development, all matters regarding access, car parking, road layout, design and specification within that phase, including the disposal of surface water, shall be designed in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Council as Planning Authority. Thereafter, all approved works shall be completed within a timescale agreed with Perth and Kinross Council.

*Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.*

- 6 Each application for the approval of matters specified in conditions (relating to the different phases) shall include a transport assessment scoped to include the means of access to the site from the wider public road network to include all modes of transport (walking, cycling, public transport and private car), to the satisfaction of the Council as Planning Authority, unless otherwise agreed in writing by the Council as Planning Authority.

*Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.*

- 7 Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices, to the satisfaction of the Council as Planning Authority.

*Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.*

- 8 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

*Reason - In order to comply with The Scottish Planning Policy.*

- 9 No development shall take place until fencing has been erected, in a manner to be agreed with Perth and Kinross Heritage Trust and the Planning Authority, to protect Scheduled Monument 1575. In addition, no works shall take beyond the fencing without the prior agreement of the Council as Planning Authority and Perth and Kinross Heritage Trust.

*Reason – In order to comply with The Scottish Planning Policy.*

- 10 The setting of Scheduled Monument 1575 shall be protected, to the satisfaction of the Council as Planning Authority, in consultation with Historic Scotland.

*Reason - In order to comply with The Scottish Planning Policy.*

- 11 Each application for the approval of matters specified in conditions (relating to the different phase) shall include an updated air quality report(s), unless otherwise agreed in writing by the Council as Planning Authority.

*Reason - In order to comply with The Scottish Planning Policy.*

- 12 A detailed construction method statement must be submitted to the Council prior to works starting and shall include pollution prevention, details of storage and disposal of materials and construction site facilities as well as information on the timing, duration and phasing details of the construction, all to the satisfaction of the Council as Planning Authority.

*Reason - In order to safeguard the Special Area of Conservation.*

- 13 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to primary education infrastructure, unless otherwise agreed in writing with the Council as Planning Authority.

*Reason - To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.*

- 14 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy RD4: Affordable Housing of the Perth & Kinross Local Development Plan 2014, unless otherwise agreed in writing with the Council as Planning Authority.

*Reason - To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.*

- 15 All submitted details relating to the hotel, nursing home, clubroom extension and business starter units are for indicative purposes only, and are therefore not approved as part of this application.

*Reason - This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.*

- 16 Prior to the approval of matters specified in conditions in relation to the first phase of the development, a detailed ecological survey (including flower and fauna) of the whole site shall be carried out and submitted for the approval in writing by the Council as Planning Authority, unless otherwise agreed in writing by the Council as Planning Authority. Thereafter, each application for the approval of matters specified in conditions of subsequent phases of development, must include an updated ecology report, unless otherwise agreed in writing by the Council as Planning Authority.

*Reason - In the interest of protecting the environmental quality and to ensure that the local habitat has not altered over time.*

## **B JUSTIFICATION**

- 80 The proposal is considered to be contrary to the Development Plan, but there are other material considerations that would justify a departure there from.

## **C PROCEDURAL NOTES**

- 81 None applicable.

## **D INFORMATIVES**

- 1 For the avoidance of doubt, the term 'phase' within any condition or directive shall refer to the phases as have been approved under the terms of Condition 1 of the planning permission in principle hereby approved.

Background Papers: Two letters of representation (including one late representation)  
Contact Officer: Andy Baxter – Ext 5339  
Date: 27 January 2017

**Nick Brian**  
**Interim Head of Planning**

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