

Perth and Kinross Council
Planning & Development Management Committee – 17 January 2018
Report of Handling by Interim Development Quality Manager

PROPOSAL: Change of use of agricultural shed and yard to general storage and distribution (Class 6)

LOCATION: Lambhill, Blairingone

Ref. No: 17/01227/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 forms part of an area of land at Lambhill Farm which is situated 0.5km to the south east of the village of Blairingone and which was formerly part of a wider open cast mining site operated by British Coal. When the open cast mining finished the land was restored to agricultural use at Lambhill Farm. Established woodland planting surrounds and screens the site and there is a man-made settlement pond to the south west. In April 1998 planning consent was granted on the former open cast mining hardstanding area for the erection of 2 agricultural buildings and the use of an area of hardstanding for agricultural and forestry purposes under application PK 97/1655.
- 2 An application which was submitted on another part of the wider site for a change of use of the agricultural shed consented under PK97/1655 for the processing and storage of biomass materials was withdrawn on the 8 May 2013 (12/00912/FLL).
- 3 Application 12/01354/FLL was a retrospective application for the storage of waste wood material on a lower hardstanding area. This application was approved with conditional control.
- 4 The current application seeks consent for the change of use of the upper pad and the existing agricultural building/cattle shed to storage and distribution, as defined in Class 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. It should be noted that this site has been subject to enforcement investigation and action.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 5 Directive 2011/92/EU requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 6 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 7 An Environmental Statement was not required to be submitted with the proposal as the scale of development falls below the EIA thresholds.

NATIONAL POLICY AND GUIDANCE

- 8 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

- 9 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

Scottish Planning Policy 2014

- 10 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.

- 11 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35
 - Supporting Business and Employment : paragraphs 92 – 108
 - Promoting Sustainable Transport and Active Travel: paragraphs 269 – 291

Planning Advice Notes

- 12 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 75 Planning for Transport

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

- 14 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYPlan Strategic Development Plan 2016-2036

- 15 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 16 *“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014

- 17 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP 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.
- 18 The relevant principal policies are, in summary:

Policy PM1A - Placemaking

- 19 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

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

Policy ED1A - Employment and Mixed Use Areas

- 21 Areas identified for employment uses should be retained for such uses and any proposed development must be compatible with surrounding land uses and all six of the policy criteria, in particular retailing is not generally acceptable unless ancillary to the main use.

Policy ED3 - Rural Business and Diversification

- 22 Favourable consideration will be given to the expansion of existing businesses and the creation of new business. There is a preference that this will generally be within or adjacent to existing settlements. Outwith settlements, proposals may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that permanent employment is created or additional tourism or recreational facilities are provided or existing buildings are re-used. New and existing tourist related development will generally be supported. All proposals are required to meet all the criteria set out in the policy.

Policy TA1B - Transport Standards and Accessibility Requirements

- 23 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 ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 24 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP5 - Nuisance from Artificial Light and Light

- 25 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

Policy EP8 - Noise Pollution

- 26 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

Policy EP14 - Blairingone Ground Conditions

- 27 Within Blairingone, applications for new development will require to be supported by an engineer's report into the stability of ground conditions with particular regard to old mine workings.

SITE HISTORY

- 28 97/01345/FUL Erection of a general agricultural store on 3 October 1997 Application Withdrawn
- 29 97/01660/FUL Erection of 2 agricultural buildings at Lambhill/Broomhill Farms, Blairingone 3 April 1998 Application Permitted by Committee.
- 30 99/00102/FUL Approval of land restoration plan in accordance with a condition on planning permission PK/97/1665 (erect 2 agricultural buildings) and extension of time to complete restoration of opencast coal extraction site (PK/88/0374MW) on 27 July 1999 Application Refused by Committee.
- 31 00/00259/FUL Approval of land restoration plan in accordance with a condition on planning permission PK/97/1665 (erect 2 agricultural buildings) and extension of time for completion of restoration works (PK/98/0374) at 16 October 2000 Application Refused by Committee.
- 32 12/00912/FLL Modification of existing consent (PK/97/1665) to allow change of use of agricultural shed for the processing and storage of biomass materials Application Withdrawn 8 May 2013
- 33 12/01354/FLL Storage of waste wood material on concrete hardstanding in retrospect. 15 May 2013 Application Permitted under delegated powers.
- 34 13/01174/FLL Change of use of agricultural shed for the processing and storage of biomass materials (in retrospect) 25 March 2015 Refused and appeal dismissed by Local Review Body
- 35 16/01352/FLL Change of use of agricultural shed and yard to general storage and distribution (class 6) 23 February 2017 Application Withdrawn
- 36 17/00737/FLL Siting of static caravan for use as staff accommodation for a temporary period 14 June 2017 Application Refused under delegated powers.

CONSULTATIONS

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

External

- 38 **Fossoway Community Council:-** Object. Ambiguous figures in the Transport Consultant's submission. Concern with extent of HGV traffic movement and impact on residential amenity. The site is identified as a protected area for agriculture and not suitable for a Class 6 use. Noise Impact Assessment not changed significantly and there will still be disruption to neighbours. Application is contrary to PM1A and EP8.

Internal

- 39 **Transport Planning:-** No objection.
- 40 **Environmental Health:-** No objection subject to conditions to control noise and dust.
- 41 **Strategy and Policy:-** In terms of Policy ED3 they note that employment opportunities outwith settlements may be acceptable where they offer opportunity to diversify an existing business or are related to a site specific resource or opportunity.

REPRESENTATIONS

- 42 The following points were raised in the fifteen representations received (which includes the Fossoway and District Community Council comments):-
- Site is zoned for agriculture not industrial, loss of prime agricultural land, loss of open space
 - Lorry movements are excessive, road safety concerns and traffic congestion
 - Noise
 - Inappropriate land use, out of character with area, impact on quality of life.
 - Over intensive development
 - Potential to change building from Class 6 use to Class 4 use.
 - Contrary to development plan
 - Scottish Government stated that Blairingone should be left in peace following petition (Scottish Parliament reference PE327)
- 43 These issues are addressed in the Appraisal section of the appraisal.

44 **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 |
| Reports on Impact or Potential Impact | Submitted |

APPRAISAL

- 45 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the LDP 2014. 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 also detailed above.
- 46 This application seeks to bring the upper pad and the existing agricultural building/cattle shed into a storage and distribution use. This would fall under Class 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Accordingly there will be an element of open storage on the upper pad as well as internal storage associated with the shed.
- 47 Open storage uses raise one issue in common, that of visual amenity. Other problems often arise with storage uses such as traffic generation and noise. These issues are addressed in greater detail under the headings below.

Principle

- 48 Policy ED1A identifies areas for employment uses which should be retained for such uses and any proposed development must be compatible with surrounding land uses. These zoned sites are generally located within or adjacent to the main settlements.
- 49 Policy ED3 Rural Business and Diversification provides favourable consideration to the expansion of existing businesses and the creation of new business. While ED3 has a preference for proposals to be within or adjacent to existing settlements it confirms that proposals may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity when located outwith settlements.

- 50 In this case the site at Lambhill is considered to relate to a site specific opportunity and will allow the expansion of storage from the lower pad area to the upper pad area and shed building. In addition Environmental Health's concern about potential impact on amenity suggests that if its location was proposed within a settlement boundary it would likely negatively impact on residential amenity. Based on these factors I consider the principle of the development to be acceptable.
- 51 It is worthwhile referring to the Town and Country Planning (Use Classes) (Scotland) Order 1997 at this stage as this piece of legislation allows a change from Class 6 Storage and Distribution to Class 4 Business without requiring planning permission. Class 4 Business encompasses the following:-
- 52 Use-
- (a) as an office, other than a use within Class 2 (financial, professional and other services);
 - (b) for research and development of products or processes; or
 - (c) for any industrial process; being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
- 53 This potential allowance to change from Class 6 to Class 4 in this case has the potential to undermine the Local Plan and other designated sites associated with ED1A. Accordingly there is a requirement to limit the extent of this consent and ensure that this change cannot occur without the merits of the change being fully appraised. Conditional control is therefore recommended to be applied (condition 2).
- 54 I note that representation has raised concerns regarding the loss of prime agricultural land and the loss of open space however the land is classed as 3.2 non-prime agricultural land and the site is not zoned as open space in the LDP. It is also worth noting that this application relates to a change of use of an existing shed and an existing area of hardstanding.

Landscape

- 55 Inappropriately sited development can have negative visual impacts and cause damage to their landscape settings. Criterion (b) of LDP Policy ED3 requires the proposal to be satisfactorily accommodated within the landscape. There is also landscape protection associated with Policy ER6.
- 56 Open storage uses often raise visual amenity and landscape concerns. Currently the existing landscape framework around the site works well in screening the existing lower pad storage area. That same framework can also accommodate and screen the open storage proposed on the upper pad. However as the upper pad is raised in height it will require the height of the open storage to be restricted to ensure it will not have any adverse visual

impact on the immediate surrounding area including the village of Blairingone or the wider countryside.

- 57 In my view the storage should be limited to the eave height of the existing building on site at some 6.0 metres (condition 3). This would ensure compliance with criterion (b) of LDP Policy ED3 and Policy ER6.

Residential Amenity

- 58 While there is an existing consent in place which relates to storage on the lower pad there is a requirement to take account of the potential cumulative impacts associated with bringing the upper pad into this use.

Noise:-

- 59 Environmental Health confirm that the previous application 16/01352/FLL was withdrawn as they could not support the application due to adverse effects on residential amenity due to noise from operational traffic during the night time period 23:00 hours to 07:00 hours; as indicated in the Noise Impact Assessment AS0566Lambhill dated 7 December 2016 submitted with the application.
- 60 This application is still for the change of use to Class 6 (storage and distribution) however there is now a reduction in the proposed operational hours at the site.
- 61 The applicant has submitted a revised assessment, AS0566Lambhill Rev04 dated 30 June 2017. The updated revised assessment carried out separate assessments for daytime and evening operations, based on four vehicle movements, one vehicle unloading and one vehicle loading per hour and assumed that there were no scraping operations during the evening period.
- 62 The NIA stated that in terms of BS4142:2014 the impact on residential properties during the daytime and evening operations would have a predicted increase in ambient sound of < 1dBA. In terms of TAN assessment this would be a negligible increase of neutral/slight adverse significance; except on a Sunday after 22:00 hours when the background level falls below 30dB LA₉₀. A site visit dated 29 June 2017 established that there was no tonal, impulsive or intermittent noise characteristics from the operations carried out at the time of the visit.
- 63 Environmental Health are in agreement with the consultant with regards to character corrections. They do however recommend that conditional control is applied to limit noise and protect residential amenity, this relates to plant and equipment as well as the operational hours at the site as detailed in conditions (see condition 5). With conditional control in place I do not consider there will be a conflict with Policy EP8.

Dust:-

- 64 The application is for the storage of waste wood material within the existing building and hard standing. Dust particles are produced when the material is being loaded onto the vehicles.
- 65 Environmental Health have concern that during drier weather there is the potential for dust migration from the site. However due to the separating difference between the facility and the closest residential properties they not believe a formal dust assessment is required. However a dust management plan should be secured by conditional control to detail measures to control dust at the site. (See condition 5).
- 66 I note that reference has been made in letters of representation to a petition made to the Scottish Parliament where there is reference made to Blairingone being left in peace. Taking the above into account with the conditional control in place there is not considered to be a conflict with Policy EP8 and that a suitable level of residential amenity to neighbouring dwellings and the settlement of Blairingone would be maintained.

Roads and Access

- 67 The applicant has now provided additional information relating to the existing and proposed vehicle movement to/from the site and provided a comparison to the existing traffic conditions on the A977, based on 2016 traffic data, provided by the Department for Transport (DfT).
- 68 I would note that the assessment undertaken by the Council's Transport Planning Team is based on technical standards and the capacities of the local road network using industry standard guidance. Issues relating to amenity, noise etc will be commented on by other consultees.
- 69 The development site is accessed from the U213 which between the A977 and the site access is of a high standard. The U213 after the site access is not suitable for HGV traffic and is signed as such.
- 70 The junction between the U213 and the A977 is also of a high standard with a ghost island configuration to the standards set in the Design Manual for Roads and Bridges (DMRB) that is adequate for the existing and proposed traffic levels.
- 71 The applicant has indicated that a maximum of 100 HGV movements per day will be generated by the development, however no trip distribution information has been provided and instead a "worst case" situation of all vehicles using the A977 to the east of the U213/A977 junction has been assessed.

- 72 The applicant has stated that the traffic volumes of the A977 1.5km east of Blairingone are 5992 vehicles per day (annual average daily traffic) with 767 of these being HGV traffic – representing 13% of total traffic. Based on this data, an increase of 100 HGV's represents a 1.7% increase in total traffic and a 13% increase in HGV traffic. This is based on 2016 DfT data.
- 73 The Council collected traffic survey data for the A977 at Blairingone in 2017 and this indicated the current traffic volume as 7473 vehicles per day (based on a 7 day average) with 431 of these being HGVs. Based on these figures, the development traffic would represent a 1.3% increase in total traffic and a 23% increase in HGV traffic. The percentage of the total traffic being HGV's would increase from 6% to 7%.
- 74 Outwith the settlements, the A977 can be broadly classed as a DMRB S2 road which has an indicative capacity of up to 16000 vehicles per day. It can therefore be demonstrated that the A977 is operating significantly below capacity.
- 75 Within urban areas, it is appropriate to class the A977 as a "urban all purpose" UAP3 which the DMRB describes as a "variable standard road carrying mixed traffic with frontage access, side roads, bus stops and at-grade pedestrian crossings".
- 76 Based on the lowest width classification of this type of road, the capacity is stated as being 900 vehicles per hour (one way). The DMRB advises that no correction to capacity is required if the proportion of HGVs is below 15%.
- 77 Referring to the 2017 survey data collected by the Council, the maximum hourly flow is 296 vehicles. This would indicate that within the urban areas, the A977 is currently operating well within capacity which would still be the case with the proposed development traffic.
- 78 As part of the consultation process, Transport Planning consulted with the Council's Traffic and Network Team as well as the Roads Maintenance Partnership. No concerns were raised with regard to network performance, road safety statistics or adverse impacts on road maintenance. Therefore, in so far as roads matters are concerned, the proposed development does not conflict with Policy TA1B.

Drainage and Flooding

- 79 Policy EP2 relates to flooding and states that there is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant possibility of flooding from any source. There are no flooding or drainage concerns.

Natural Heritage and Biodiversity

- 80 Policy NE3 of the LDP requires new development to take account of any potential impact on natural heritage including protected species and states that the Council should seek to protect and enhance all wildlife and wildlife habitats whether formally designated or not.
- 81 Concerns have been raised in representation that the proposal will have an adverse impact on wildlife. However, I do not consider that this change of use proposal raises any conflict with bio-diversity interests in this area as there will be no loss of habitat.

Economic Impact

- 82 The proposed storage and distribution use is not considered to have a significant economic impact in terms of employment numbers however it is acknowledged that there will be some economic benefits associated with expanding the operation of the site to the upper pad area and building.

LEGAL AGREEMENTS

- 83 None required.

DIRECTION BY SCOTTISH MINISTERS

- 84 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

- 85 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the LDP and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 86 Accordingly the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

Approve the application Conditions and Reasons for Recommendation

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Notwithstanding the provisions of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended and The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended or any other subsequent order revoking and re-enacting those orders with or without modification, the site shall only be used for Class 6 Use Storage and Distribution and shall be used for no other uses including uses within The Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended except with the prior permission of the Local Planning Authority obtained through the submission of a planning application.

Reason - In order to control and restrict the use of the building.

- 3 The storage of equipment, goods or materials shall not exceed 6 metres in height from the ground level within the application site other than within the building.

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

- 4 No processing of waste wood shall be carried out on the application site to the satisfaction of the Planning Authority.

Reason - In accordance with the terms of the application.

- 5 Prior to bringing the upper pad and building into use an operational management plan (OMP) for the whole Lambhill site shall be submitted to and approved in writing by the Planning Authority. The OMP Shall include:-

- A Dust Management Plan covering all operational activities detailing measures to control dust and prevent its migration from the site.
- Hours of operations that shall be restricted to Monday to Saturday 07:00 to 23:00 and Sunday 07:00 to 22:00
- That no scraping operations shall take place on site during the evening period Monday to Saturday 19:00 to 23:00 hours, Sunday evening period 19:00 to 22:00 hours

- That no deliveries or operations shall take place on site during the night time period 23:00 to 07:00 hours

Thereafter the approved measures contained within the OMP shall be implemented and records kept for perusal of the Planning Authority.

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

- 6 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the 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.

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.

Background Papers: 15 letters of representation
 Contact Officer: John Russell 01738 475346
 Date: 22 December 2017

ANNE CONDLIFFE
INTERIM DEVELOPMENT QUALITY MANAGER

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