

Perth and Kinross Council  
Development Management Committee – 10 August 2016  
Report of Handling by Development Quality Manager

**Variation of condition 1 of permission 13/00394/IPM (Development of roadside service facilities (in principle)) to extend the time period for the commencement of the development at the Horn Farm, Errol, Perth, PH2 7SR**

Ref. No: 16/00298/IPM  
Ward No: N1 – Carse

**Summary**

This report recommends approval of an application for the variation of the time limit condition (condition 1) imposed on an extant planning permission for a new road-side services at the Horn Farm, Errol (13/00394/IPM), associated with original planning consent 09/01277/IPM, with additional conditions now recommended to address phasing and flood risk, which was not identified in earlier assessments. Whilst some elements of the proposed development no longer fully comply with the allocation in the current Development Plan, there are material considerations for some form of continued support.

**BACKGROUND AND PROPOSAL**

- 1 The site extends to approximately 8.5ha of agricultural land located adjacent to the southern side of the Inchmichael grade separated junction on the A90 - Perth to Dundee Road. The site is reasonably flat, contained to the west by the slip road, which leads off the interchange to serve the Horn Milk Bar and Perthshire Caravans and to the south by Errol Station Road. The site has good vehicular access via the interchange to both carriageways of the A90.
- 2 In February 2010, the Council granted outline planning permission for the development of roadside services on the site. That consent followed a long planning history, stretching back to 1990 when the first planning consent was granted for a roadside service centre. That consent was subsequently renewed in 1995, and again in 2005. The 2005 consent expired in January 2009; however the subsequent consent 09/01277/IPM reinstated the permission on the site. A further section 42 application was then applied for in 2013 (13/00394/IPM) for an extension of time in relation to the submission of a detailed application and subsequent commencement of development. That consent expired on 6th March this year, after this application was submitted. At the time of granting that consent, Members did express concerns over the further extension of the time period and although this latest application seeks a further time period, nevertheless, it has been lodged by the applicant with the intention of concluding the submission of the details for an early application for matters reserved, if this current application is approved.
- 3 This planning application seeks to further vary the standard time limit condition, which was attached to the original 2009 consent through a planning application made under Section 42 of the Planning Act. The standard time limit condition which is imposed on the 2009 planning consent (condition 1) read:-

- *Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:*
  - (i) *the expiration of 3 years from the date of the grant of the planning permission in principle,*
  - (ii) *the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or*
  - (iii) *the expiration of 6 months from the date on which an appeal against such refusal was dismissed.*

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

- 4 Scottish Government planning Circular 4/1998 - The use of conditions in planning permissions 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.
- 5 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 Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 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.

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

- 6 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.

## **Expiry of Planning Consent 13/00394/IPM**

- 7 Planning application 13/00394/IPM formally expired on the 3 March 2016. As this current application under consideration was submitted and validated by the Council before that date, it is deemed competent to proceed to the determination of this application, which is directly linked to a now expired consent.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 8 Directive 2011/92/EU requires the 'competent authority' (Perth and Kinross Council) when giving planning consent for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. This Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 9 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.
- 10 As the proposed development is a development project with a site area exceeding 0.5ha, falls under Schedule 2 (10(b)) of the Town & Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, it must be screened under those regulations to determine whether any likely significant environmental effects arising from this development in this location would require examination through Environmental Impact Assessment (EIA). A screening opinion has been historically carried out, which concluded that undertaking an EIA was not required in this case.

## **NATIONAL POLICY AND GUIDANCE**

- 11 The Scottish Government expresses its planning policies through the National Planning Framework 3, Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

### **National Planning Framework 3**

- 12 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**

- 13 The SPP was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
  - The preparation of development plans.
  - The design of development, from initial concept through to delivery.
  - The determination of planning applications and appeals.
- 14 Of relevance to this application are;
  - Paragraphs 24 – 35: Sustainability
  - Paragraphs 36 – 57: Placemaking
- 15 A Successful, Sustainable Place:
  - Paragraphs 92- 108 Supporting Business and Employment
- 16 A Natural, Resilient Place:
  - Paragraphs 193 – 218 The Natural Environment
  - Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268 Managing Flood Risk & Drainage
- 17 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
  - PAN 1/2011 Planning and Noise
  - PAN 40 Development Management
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 60 Planning for Natural Heritage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 75 Planning for Transport
  - PAN 79 Water and Drainage

### **National Roads Development Guide (2014)**

- 18 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 proposed motorised vehicle movement's at a local and regional level, including parking provision.

## **DEVELOPMENT PLAN**

- 19 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012-2032 (Approved June 2012) and the Perth and Kinross Local Development Plan 2014 (Approved February 2014)

### **TAY plan Strategic Development Plan 2012**

- 20 TAYPlan sets out a vision for how the region will be in 2032 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:
- *“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, study and visit, and where businesses choose to invest and create jobs”*
- 21 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

### **Policy 1: Locational Priorities**

- 22 Seeks to focus the majority of development in the region's principal settlements.

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

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

### **Policy 8: Delivering the Strategic Development Plan**

- 24 States:
- *“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.*

## **PERTH & KINROSS LOCAL DEVELOPMENT PLAN FEBRUARY 2014**

- 25 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.

- 26 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.”*

- 27 Under the LDP, the following policies are of particular importance in the assessment of this application:

### **PM1: Placemaking**

- 28 PM1A: Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.  
PM1B: All proposals should meet the placemaking criteria set out.

### **PM2: Design Statements**

- 29 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.

### **PM3: Infrastructure Contributions**

- 30 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 ED3: Rural Business and Diversification.**

- 31 This policy states that the Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. It is, however, important that the proposal meets the criteria set out within this policy, specifically in terms of its contribution to the local economy.

### **TA1: Transport Standards and Accessibility Requirements**

- 32 TA1A: Encouragement will be given to the retention and improvement of transport infrastructure identified in the plan.

- 33 TA1B: 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.

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

- 34 National, local and European protected species should be considered in all development proposals.

### **NE3: Biodiversity**

- 35 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

### **EP1: Climate Change, Carbon Reduction and Sustainable Construction**

- 36 Sustainable design and construction will be integral to new development within Perth & Kinross.

### **EP2: New Development and Flooding**

- 37 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 probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

### **EP3: Water Environment and Drainage**

- 38 EP3A: Proposals, which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans, will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.
- 39 EP3B: Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.
- 40 EP3C: All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **EP8: Noise Pollution**

- 41 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.

**Policy ER6: Managing future landscape change to conserve and enhance the diversity and quality.**

- 42 This policy seeks to ensure that landscape change is compatible with the distinctive characteristics and features of Perth and Kinross's landscapes.

**Policy HE1: Scheduled Monuments and Non-Designated Archaeology**

- 43 Policy HE1B: Seeks to protect the integrity of areas or sites of known archaeological interest and their settings.

**OTHER POLICIES**

- 44 The following supplementary guidance and documents are of particular importance in the assessment of this application:
- Flood Risk and Flood Risk Assessments – Developer Guidance (June 2014)
  - Sustainable Design and Zero Carbon Development Supplementary Guidance (May 2014)
  - Green Infrastructure Supplementary Guidance (Draft) (July 2014)

**Perth & Kinross Corporate Plan 2013-2018**

- 45 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.

**SITE HISTORY**

- 46 An original in principle planning consent on the site was obtained in 1990 (PK90/01045) for the development of Roadside Services. That consent was never implemented and was subsequently renewed in 1995, and then in 2005. The 2005 consent expired in January 2009, however a further consent in 2010 (09/01277/IPM) reinstated the in principle consent on the site.

**CONSULTATIONS**

**EXTERNAL**

- 47 **Transport Scotland** – No concerns raised.
- 48 **Scottish Environment Protection Agency** – No objection raised subject to the inclusion of a condition relating to no land raising or solid boundaries within the identified 1:200 year floodplain.
- 49 **Scottish Water** – No comments received.
- 50 **Scottish Natural Heritage** – No comments received.



## INTERNAL

- 51 **Environmental Health** – Have clarified their position remains consistent with comments previously made in relation to planning applications 09/01277/IPM and 13/00394/IPM.
- 52 **Flood Risk and Structures** – Initial Flood Officer comments were reviewed and updated following additional submission of information, including flood risk assessment and drainage strategy. Flood officer clarified details now submitted were sufficient for in principle stage, but would require additional work to be undertaken for any detailed planning submission.
- 53 **Developer Contributions Officer** - Comments received confirming this proposal is for renewal of an existing consent which predated the adoption of the Transport Infrastructure Supplementary Guidance. The Guidance will not apply.
- 54 **Transport Planning** – No concerns.
- 55 **Perth and Kinross Heritage Trust** – Comments received confirming recommendation for an archaeological evaluation under planning application 09/01277/OUT remained the consistent position.
- 56 **Strategy and Policy Team** – Comments received confirming no direct objection from a policy point of view, although the length of time it has remained undeveloped raises concerns around its viability.

## REPRESENTATIONS

- 57 A single representation was received, which stated a desire to have a condition to be included to require the applicant to make a contribution towards a path linking the proposed development and Errol Station.
- 58 The Appraisal section of this report addresses the issue raised.

## ADDITIONAL STATEMENTS

59

Environment Statement	Not required
Screening Opinion	Previously Undertaken
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	Drainage/flood impact assessment, Surface water drainage information and drainage strategy calculations on request.

## **APPRAISAL**

- 60 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.
- 61 Taking the above into account the assessment of this application principally relates to the time limit stipulated in condition no. 1 of the extant planning permission and whether or not to allow the time period in which a detailed planning submission can be submitted for consideration, to be extended.
- 62 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.
- 63 To this end, the determining issue as to consenting further extension of the time period is ultimately whether or not the policy framework of the Council has materially changed to a degree whereby the Council should consider a different recommendation. For reasons set out below, I do consider that whilst there is a distinct material change in Council policy, there remains a broad policy context to continue to support the principle of this development, albeit not indefinitely.

### **Policy Appraisal**

- 64 The assessment of the historic planning applications on this site, placed considerable weight on the fact that both the then current strategic plan (the Structure Plan) and the adopted Local Plan promoted this site for a new roadside facility development. However since the approval of the 2009 planning application a new Strategic Development Plan (TAYplan) and a new Local Development Plan have both now been adopted, removing all specific designation reference to the development of this site.
- 65 Whilst acknowledging that at a strategic level, the site is now not part of the current framework via the Tayplan key priorities, the acceptability (in land use terms) for a new, comprehensive roadside facility on this site remains broadly compliant with policy objectives of the current adopted Local Plan, namely through Policy ED3.
- 66 It has been noted through the previous application to Committee that the applicant had been unable to progress this development due to the economic downturn. Whilst no physical works have commenced on site since this time, the current applicant has shown some commitment to the delivery of

development on the site, namely through the undertaking of a flood risk assessment and drainage impact assessment to assist in identifying the developable areas of the site. In addition, some conceptual design work and a draft design brief have been worked up, alongside some additional background information; particularly in relation to the proposed Horn Café relocation element.

- 67 There is considered to be an acknowledgement by the current applicant that the renewal of planning consents cannot continue indefinitely, both through the overall policy position and the established LDP position setting out a commitment to review sites, which are not being actively brought forward and developed out. In summary, I consider that the provision of additional, albeit significantly reduced time limited extension's through the section 42 application (now recommended to be reconfigured in a phased manner), remains appropriate in this case. This would allow a reasonable time frame for the applicant to build on the additional site investigation works undertaken to date following the granting of the previous consent and bring the detailed planning application elements of this site forward in a phased manner. Principally, the relocation of the Horn Café element is considered both most applicable through the interpretation of Policy ED3 and realistic to deliver as part of the business plan.

### **Design and Layout**

- 68 The design and layout is not considered at in principle stage. The applicant has however commissioned a draft design brief, which is set out as part of the background submission and a 3D perspective of what the new Horn café could look like, which has been undertaken following the previous planning submission. The perspective does not show the wider site context, which is something that would be anticipated as part of the design process background of any detailed planning submission.

### **Landscaping**

- 69 Whilst landscaping is not considered at in principle stage, .conditional requirements have been included in planning consent 09/01277/IPM to ensure detailed landscaping is addressed as part of a reserved matters application however, including the requirement for a 20 metre landscape buffer along the external boundaries of the site.

### **Visual Amenity**

- 70 Not fully considered at in principle stage.

### **Traffic and Transport**

- 71 Policy TA1B of the LDP requires a full assessment of the impact of the development to pedestrian and traffic safety to be undertaken.

- 72 Overall, I am satisfied that the proposal can meet the requirements of Policy TA1B of the LDP, provided appropriate conditions continue to be carried forward and addressed in detailed phases; in the interests of pedestrian and traffic safety.
- 73 The applicant has identified that the site sits close to national cycle route 77 (Dundee to Pitlochry) with cyclists using the existing facility as a pit stop. The applicant aims to develop and enhance cycling facilities through the new facility.
- 74 Transport Scotland have confirmed that they do not proposed to advise against the continued support of the proposal and the granting of planning permission.

### **Drainage and Flooding**

- 75 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.
- 76 The obligation to undertake a flood risk assessment (FRA) on this site was an additional obligation to the applicant, which was not identified through previous assessments as a result of the revised 2015 SEPA flood map extents. This was deemed competent through the determination of the S42 application.
- 77 The red line boundary within the FRA (drawing FRA 13461/21/001) originally submitted was inconsistent with that in the planning application (drawing 3254-DS-100-A). The red line boundary contained within the planning application drawing identified a larger area than that in the FRA, indicating a larger area to be at risk of flooding in a 1 in 200 year event than stated in the FRA.
- 78 The proposed site plan indicates a section of low cost/budget accommodation would be located within the indicative flood envelope for the Grange Pow. This is part of the area missing from within the red line boundary in the FRA. SPP 2014 states that development should be prevented, which would have a significant probability of flooding or increase the risk of flooding elsewhere.
- 80 Additional clarification was requested regarding the flood risk assessment and a drainage impact assessment and drainage strategy were also requested to establish that suitable and realistic measures could be progressed and adopted through any detailed matters applications.
- 81 In progressing to a reserved matters application, the Councils flood officer has confirmed that the following elements would need to be addressed, set out and adhered to as part of any detailed submission:
- *A full Drainage Impact Assessment is submitted to PKC as Planning Authority in consultation with PKC Flood Team for review and approval.*

- *The developer shall ensure that no buildings are located within the functional flood plain and that there are no restrictions to flow within this area.*
- *The developer shall not permit any land raising to take place unless suitable compensatory storage can be provided to the satisfaction of PKC as planning Authority in consultation with the PKC Flood Team.*
- *Full drainage calculations and the final layout and depth of any proposed SUDS and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with Perth and Kinross Council Flooding Team. The agreed detail shall thereafter be implemented prior to the completion of development.*
- *The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS all to the satisfaction of the Council as Flood Authority.*
- *Storm water drainage from all paved surfaces shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.*
- *The discharge of any surface water drainage shall be limited to the Greenfield runoff rate for the Grange Pow. All discharge rates shall be agreed in writing with the Flooding Team prior to the commencement of any works on site.*
- *A 5 m maintenance strip either side of the watercourse must be provided along the Grange Pow.*

82 The aforementioned requirements are all consistent with the recommendations contained within Perth and Kinross Council 'Developers Guidance Note on Flooding and Drainage' (June 2014). It is recommended through this report that these elements are collectively controlled via conditional adherence to this guide.

### **Developer Contributions**

- 83 The Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements, which are required for the release of all development sites in and around Perth.
- 84 This proposal is for the renewal of an existing consent, which predated the adoption of the Transport Infrastructure Supplementary Guidance. The Guidance will therefore not apply.
- 85 The requirement or necessity for path linkages can be further explored appropriately at the detailed planning submission stages, directly in consultation with Community Greenspace colleagues. Any identified requirement of a contribution towards a path network as set out in the representation received should however be commensurate and proportionate to the associated scale of the development and phasing being progressed.

### **Neighbouring Amenity**

- 86 As this is a planning in principle application, the detailed siting, design and layout of the development is not under consideration at this stage. I am however confident that detailed development proposals can be achieved, which would not compromise the ongoing integrity of neighbouring amenity uses.

### **Air Quality**

- 87 Not considered at the in principle stage.

### **Lighting**

- 88 Policy EP5 of the LDP relates to light pollution and seeks to prevent statutory nuisance from occurring due to lighting. No detailed comments at this stage.

### **Ecology/Biodiversity**

- 89 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.
- 90 When determining applications the Planning Authority is required to have regard to the Habitats Directive and the Habitats Regulations. Consideration of how 'European Protected Species' (EPS) are affected must be included as part of the consent process, not as an issue to be dealt with at a later stage. Three tests must be satisfied before the Scottish Government can issue a license under regulation 44(2) of the Habitats Regulations so as to permit otherwise prohibited acts.
- 91 The site is currently grazing land. It is considered that the development of this site is unlikely to have any significant impact on any protected species. It is acknowledged that the undisturbed nature of the site will provide a habitat for various insects and wildlife but the site could be developed without having a significant impact on the biodiversity of the local area.
- 92 There were no detailed comments at the in principle stage and given the principal consideration of the Section 42 application for the extension of time, this is considered appropriate; albeit the requirements of the original in principle consent 09/01277/IPM will require to be addressed, both across the whole site and in a phased manner. This includes the requirement for a 20 metre (minimum) landscape buffer around the boundaries of the site, which will provide significant long term biodiversity opportunities.

### **Ground Conditions**

- 93 Policy EP12 of the LDP indicates that any potential contaminated land on an application site requires to be considered. There is not considered to be any significant contamination issues of this site.

## **Archaeology**

- 94 Policy HE1B seeks to protect the integrity of areas or sites of known archaeological interest and their settings. The continued recommendation for an archaeological evaluation under planning application 09/01277/OUT therefore remains consistent with this policy position.

## **Economic Impact**

- 95 The economic impact of the proposed development is considered to be moderate, dependant largely on the level of development achieved through the phasing and overall long term sustainability of the business model. If supported, and in particular through phase 1 as reviewed, it will however directly support a longer term future and more appropriate location for the re-siting of the established Horn Café business. The applicant has advised that 'The Horn' presently employs 12 full time / part-time catering staff in the restaurant and shop. Following construction of the new facility to accommodate 160 covers, it is anticipated a further 12 new positions will be required; thereby doubling staff numbers.

## **LEGAL AGREEMENTS**

- 96 None required at this stage.

## **DIRECTION BY SCOTTISH MINISTERS**

- 97 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 98 In conclusion, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is no longer specifically identified in the adopted Local Development Plan 2014, nevertheless, it is considered to broadly comply with the approved TAYplan 2012 and the Local Development Plan. I have taken account of material considerations, including the history of consents for the proposed development and find none that would justify overriding the Development Plan. On that basis the application is recommended for further limited approval subject to conditions.

## **RECOMMENDATION**

### **A Approve subject to the following conditions:**

- 1 The Council as Planning Authority directs that application(s) for the Approval of Matters Specified in Conditions relating to planning approval 09/01277/IPM

shall be submitted to, and approved by the Planning Authority before the commencement of development in the following phased manner:

- The application for Phase 1, hereby defined as the Horn Café relocation and all associated infrastructure and landscaping of the Approval of Matters Specified in Conditions shall be made no later than the expiration of 7 years from the date of the original grant of outline planning permission, dated the 3<sup>rd</sup> March 2010.
- The application for Phase 2 (defined as all remaining building development proposal elements not concerning the Horn café/restaurant and farm shop proposals) shall be made no later than the expiration of 7 years and 6 months from the date of the original grant of outline planning permission dated 3<sup>rd</sup> March 2010; or, if later, within 6 months from when an earlier approval for the same matters was refused or dismissed at appeal.

Reason – In accordance with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

- 2 The development shall not commence until the following matters have been approved by the Planning Authority: the siting, design and external appearance of the development, the landscaping of the site, all means of enclosure, the car parking and means of access to the site.

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.

- 3 The development hereby approved shall not commence until the drainage works have been provided to serve the development hereby permitted in accordance with details to be submitted to and approved by the Planning Authority in consultation with SEPA.

Reason: To ensure that the site is adequately drained.

- 4 No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant agreed by Perth and Kinross Heritage Trust. 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 safeguard archaeological interests

- 5 The details to be submitted under Condition 2 above shall include a scheme of landscaping which shall, as a minimum, be 20 metres in depth around the boundary of the site or any variation to be approved by the Planning Authority.

Reason: In the interest of visual amenity.



- 6 All elements of the proposed development shall adhere to the following undernoted clauses:
- The soundproofing of premises and the control of all amplified sound shall be such that no amplified sound is audible in any nearby residential property.
  - All plant or equipment (including any ventilation system) 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 30 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 NR curve chart.
  - All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.
  - An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial catering areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: In order to minimise any potential noise nuisance

- 7 All sketch layout and 3D images submitted in support of this and earlier submissions are purely illustrative only and are not approved.

Reason: This is an in principle application only.

- 8 All matters regarding access, car parking, road layout, design and specification (including street lighting and disposal of surface water) shall be in accordance with the standards required by the Council as Roads Authority.

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

- 9 Each phase of approved development shall ensure no landraising or the erection of solid boundaries within the 1 in 200 year floodplain identified on drawing number 16/00298/10.

Reason: To avoid undue risks to public safety and impact on neighbouring land or property through flood risk.

- 10 The submission of supporting information and subsequent development of each phase shall be in full accordance with the recommendations contained within Perth and Kinross Council 'Developers Guidance Note on Flooding and Drainage' (June 2014); all to the satisfaction of the Council as Planning Authority.

Reason – To ensure the development fully complies with current policy and guidance in relation to surface water drainage and flooding conditions.

- 11 Prior to the commencement of each phase of approved detailed development, a Construction Method Statement (CMS), a Site Waste Management Plan

(SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures will be submitted to and be approved in writing by the Planning Authority. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development of that phase shall be fully undertaken in accordance with the agreed details.

Reason: In the interest of protecting environmental quality and of bio-diversity.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the extended time limit of 3<sup>rd</sup> March 2017 and 3<sup>rd</sup> September 2017 respectively, they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.

**Nick Brian**  
**Development Quality Manager**

Background Papers:	1 letter of representation
Contact Officer:	Callum Petrie Ext 75353
Date:	28 July 2016

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