

Perth and Kinross Council
Planning & Development Management Committee – 14 February 2018
Report of Handling by Interim Development Quality Manager

PROPOSAL: Change of use of vacant land to form garden ground, formation of a vehicular access and erection of a fence and gates (in part retrospect).

LOCATION: Eldorado, Balnaguard, Pitlochry, PH9 0PY.

Ref. No: 17/02092/FLL

Ward No: P4- Highland

Summary

This report recommends **approval** of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is Eldorado, Balnaguard, by Pitlochry. The site forms part of the Strathtay Special Landscape Area and Breadalbane Environmentally Sensitive Area. The application seeks detailed planning permission for the change of use of vacant land to form garden ground, the formation of vehicular access and the erection of a fence and gates (in part retrospect).
- 2 The site is a narrow wedge to the immediate south of Eldorado Cottage and has previously been used by local residents as a walkway. The site is not listed as a right of way or a core path and is all under the applicant's ownership. This application seeks consent to fence off this piece of land with a 1.2 metre post and rail timber fence to the eastern and western boundaries with a timber access gate on the western boundary. The access gate will measure approximately 3.4 metres in width. Once fenced off, the site will be used as garden ground for Eldorado Cottage with an area of gravel driveway for the property.
- 3 The applicant has already partly commenced the proposals with the eastern section of fencing having been erected which has been subject to an enforcement case (17/00271/UNAUSE). No further works have been carried out since the enforcement case was opened and this application has been submitted to regularise works.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 4 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.

- 5 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.
- 6 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

- 7 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

- 8 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

- 9 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.
- 10 The following sections of the SPP will be of particular importance in the assessment of this proposal:
 - Sustainability : paragraphs 24 – 35
 - Placemaking : paragraphs 36 – 57

Planning Advice Notes

- 11 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 68 Design Statements

National Roads Development Guide 2014

- 12 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

- 13 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

- 14 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:
- 15 *“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

- 16 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.
- 17 The principal relevant policies are, in summary

Policy PM1A - Placemaking

- 18 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

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

Policy RD1 - Residential Areas

- 20 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy CF2 – Public Access

- 21 Development proposals that would have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used route will be refused. Development proposals that would affect unreasonably public access rights to these features will be refused unless these adverse impacts are adequately addressed in the plans and suitable alternative provision is made.

SITE HISTORY

- 22 01/00562/FUL - Alterations and formation of a dormer window extension to house at 21 May 2001: Application Approved under Delegated Powers.
- 23 11/02008/FLL - Change of use of waste ground to garden ground and erection of boundary fence, shed and decking (in retrospect) 31 January 2012: Application Refused under Delegated Powers.
- 24 12/00913/FLL - Change of use from waste ground to garden ground and erection of fence, shed and decking (in retrospect) 24 July 2012: Application Approved under Delegated Powers.
- 25 16/00739/FLL - Extension to dwellinghouse 7 June 2016: Application Approved under Delegated Powers.

CONSULTATIONS

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

Internal

Community Greenspace:

- 27 Community Greenspace identified that the existing path is not listed as a right of way or core path.

Transport Planning:

- 28 No objection to the proposed development.

External

- 29 No external consultations were undertaken.

REPRESENTATIONS

- 30 6 letters of representation were received objecting to the proposal. In summary, the letters highlighted the following concerns:

- Out of character with the area/ inappropriate land use
- Loss of open space and access
- Visual impact
- Setting a precedent
- Land ownership concerns
- Errors in application

- 31 These issues are addressed in the Appraisal section of the appraisal.

32 ADDITIONAL STATEMENTS

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	Not Required

APPRAISAL

- 33 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 Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

Principle

Change of use from vacant land to form garden ground

- 34 The local plan through Policy CF2 – Public Access, specifies that development proposals that would have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well-

used route will be refused. In this instance, the site is not listed as a right of way or designated as a core path. The site is however a well-used route which has been reinforced through the 6 letters of representation received. Whilst the site is acknowledged as being well-used, it is not considered that by granting this proposal that this would restrict public access in the area. Balnaguard is a small village with a significant track and path network throughout the settlement. This in turn means that the change of use of this land would not restrict public access as there are a number of alternative routes in close proximity. The nearest alternative route wraps around Struan Cottage which is to the immediate north of Eldorado. As such, as the proposal is not considered to have an adverse impact upon the public access of this area and it is considered to be compliant with Policy CF2.

- 35 Policy RD1 – Residential Areas is also directly applicable to the proposal as the site falls within the settlement boundaries of Balnaguard. This policy seeks to retain small areas of private and public open space where they are of recreational or amenity value. In this instance, the existing land is not considered to be of a level of amenity value that would warrant the refusal of the application. By changing the use of the land to garden ground, this would still have a positive amenity value to the area similar to that of the existing garden ground for the property. The proposal is therefore considered to be compliant with Policy RD1.

Design and Layout

Design

- 36 With regards to design, it is not considered that there are any concerns arising from the proposed development. The proposed timber post and rail fence is similar to a number of fences within the Balnaguard settlement and thus will not appear out of place on the streetscene. It has also been designed to respect the height of the existing dry-stone wall surrounding Eldorado.

Layout

- 37 The layout of the proposed development will provide a parking space for Eldorado accessed from the existing track to the west elevation. The layout will however prevent users from using this piece of land as a short cut through Balnaguard. The applicant was contacted to see whether it would be possible to include a small pathway for public use however the applicant has stated that this is not in his interest as he would be responsible for the maintenance of the pathway and would effectively be giving up some of his privately owned land for public gain. The applicant has therefore stated that he is unwilling to include a footpath. Regardless, as previously mentioned, the proposal is not considered to obstruct public access due to the number of alternative routes in close proximity. The layout is therefore considered acceptable.

Landscape

- 38 Development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross's landscape. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross. In this case, the change of use of the land and the erection of boundary fences within the settlement boundary of Balnaguard is not considered to erode local distinctiveness, diversity and quality of the landscape.

Residential Amenity

- 39 The change of use to garden ground will not negatively impact upon the residential amenity of any neighbouring unit. It is considered however that the change of use will positively impact the existing amenity of Eldorado Cottage itself. This is due to Eldorado Cottage currently being immediately adjacent to the vacant land and there are a number of ground floor windows on this elevation. By changing this land to garden ground, this will provide an element of privacy for Eldorado thus improving the residential amenity of the unit.

Visual Amenity

- 40 The fences, gate and hardstanding are considered to have a minimal impact upon the visual amenity of the area. As previously mentioned, the fence will be similar to other boundary treatments within Balnaguard and thus will not appear out of place on the streetscene.

Roads and Access

- 41 The proposal will create a parking space for Eldorado Cottage which will be accessed from the existing track to the west of the property. Transport Planning were consulted as part of this application and raised no objections to the proposed development. As such, the provision of a parking space is therefore considered acceptable in this location.
- 42 With regards to access, as previously mentioned, the proposal is not considered to have an adverse impact upon the public access of this area. Community Greenspace was consulted as part of this application where it was highlighted that the site is not a right of way or a core path and as such have no adverse concerns with the proposal.
- 43 Overall, it is not considered that there are any roads or access implications associated with the development.

Drainage and Flooding

- 44 The proposals are not considered to raise any drainage or flooding implications and no alterations to the existing gradient of the land are proposed.

Waste Collection

- 45 The proposal does not seek to amend the existing waste collection arrangements for Eldorado and as such it is considered that there are no implications in relation to waste collection arising from this proposal.

Natural Heritage and Biodiversity

- 46 There are no trees, established scrubs or habitat opportunities within the application site and as such the impacts upon the natural heritage and biodiversity of the area are likely to be minimal.

Developer Contributions

- 47 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

Economic Impact

- 48 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

LEGAL AGREEMENTS

- 49 None.

DIRECTION BY SCOTTISH MINISTERS

- 50 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

- 51 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 Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 52 Accordingly the proposal is recommended for approval subject to the following conditions.

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.

B JUSTIFICATION

- 53 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

- 54 None.

D INFORMATIVES

- 1 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: 6 letters of representation

Contact Officer: Sean Panton

Date: 1st February 2018

ANNE CONDLIFFE
INTERIM DEVELOPMENT QUALITY MANAGER

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