

Perth and Kinross Council  
Planning & Development Management Committee – 16 March 2022  
Report of Handling by Head of Planning & Development (Report No. 22/50)

**PROPOSAL:** Change of use from agricultural land to equestrian business and dog exercise area comprising of outdoor riding arena, tracked livery, shelters, tack rooms, office/toilet block, access track, car parking, fencing/floodlighting, siting of a mobile home (temporary residential accommodation) and associated works

**LOCATION:** Land NE of No 2 Blairfordel Farm Cottage, Benarty Road, Kelty

Ref. No: [21/02058/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 This application relates to a large open area of farmland located approximately 1km north of Kelty, that formed part of the historic coal mining operations at the Kinnaird Colliery. The site has since been reinstated and is presently an area of grassland that extends to around 8 hectares, sloping up from Benarty Road to a plateau of land that runs across the northern area of the site coming to a topographic 'high' within the central eastern area. The site is bound to the south by Benarty Road, and a group of residential properties are located south-east of the site; to the west the site is bound by an access track that serves Blairfordel Farm; and to the south-west lies a group of cottages and converted farm buildings at the Category C listed former Blairfordel Farm and Steading group.
- 2 Full planning permission is being sought to create an equestrian facility along with an outdoor dog exercise area. The core element of the proposal comprises of the creation of a 'tracked livery' business which instead of the horses being turned out into traditional paddocks, a track is formed around a central paddock which restricts grazing and promotes increased movement. The horses will also be sheltered within a single open barn rather than individual stables. The equestrian element of the proposals is to be located within the western half of the site with a large paddock formed with the track around its perimeter. A timber clad barn will also be erected to the north of the paddock which will provide shelter to the horses and storage for hay. An illuminated outdoor arena measuring 60 x 30 metres along with an office/tack room and parking area will also be formed within the northern area of site, to the east of the tracked livery

area. The proposed office/tack room building is of a traditional design clad with timber and a slate roof. It is proposed that the facility will accommodate up to 16 horses. The opening hours of the tracked livery are detailed as 0600hrs to 2000hrs, 7 days a week.

- 3 The proposals also include the formation of a secure dog walking area. This is located within the southern area of the site, adjacent to part of the tracked livery area. This area will be enclosed by 1.8m high deer fence and will also feature six 2.3m high post mounted solar lighting columns. The external light will be low lumen, motioned activated lighting which will only be operated for a maximum of 2 hours during the winter months. The proposed hours will be 0800 to 2000 from 1st April to 31st October and 0900 to 1600 1st November to 31st March. This element of the proposals will be on an advanced books only with a maximum of 8 dogs permitted at any one time. The applicants also intend to run a puppy play sessions/dog meets at weekends. These sessions will run between 0800hrs and 1200hrs, where the total number of dogs will not exceed 10 dogs per hour.
- 4 In addition to the above, the applicant is also seeking permission for the erection of temporary residential accommodation along with a private tack room/shelter and associated paddock. The proposed temporary accommodation is a large, pitched roof mobile home measuring 12.4m x 6m, containing three bedrooms. The tack room/shelter is similar in design to the office/tack room associated with the livery, clad with timber and featuring a slate roof.
- 5 It is proposed that this temporary accommodation is required to care for the horses and provide security. It has been indicated that permission will be sought in due course for a permanent house once the business has become successfully established. A site for the permanent house has been identified indicatively on the site plan but no further details have been provided at this stage.
- 6 Access to the site is to be taken via a newly formed junction onto Benarty Road which is a private access that is not maintained by Perth and Kinross Council. The applicant also proposes to widen a short section of the roadway in order to improve traffic movement and improve safety for all road users.

### **PRE APPLICATION CONSULTATION**

- 7 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore, the applicant was not required to undertake any formal pre-application consultation with the local community.
- 8 A pre-application enquiry was submitted to the Planning Authority in advance of the submission of the application (20/00391/PREAPP). A similar proposal was presented for comments and policy advice was provided to the applicant regarding establishing a new rural business and associated house under operational need.

## **NATIONAL POLICY AND GUIDANCE**

- 9 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 2014**

- 10 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. This is a statutory document and material consideration in any planning application. It 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**

- 11 The Scottish Planning Policy (SPP) 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:

- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 60: Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 69 Planning and Building standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 1/2011: Planning and Noise

### **Creating Places 2013**

- 12 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

### **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 2019.

### **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:

*“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.”*

- 16 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application. –

- Policy 1: Locational Priorities
- Policy 2: Shaping Better Quality Places
- Policy 3: A First Choice For Investment
- Policy 4: Homes
- Policy 9: Managing TAYplans Assets

### **Perth and Kinross Local Development Plan 2**

- 17 The Local Development Plan 2 (2019) (LDP2) 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 principal relevant policies are, in summary;

- Policy 1A: Placemaking
- Policy 1B: Placemaking
- Policy 2: Design Statements
- Policy 5: Infrastructure Contributions
- Policy 6: Settlement Boundaries
- Policy 8: Rural Business and Diversification
- Policy 27A: Listed Buildings
- Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
- Policy 39: Landscape
- Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 50: Prime Agricultural Land

- Policy 51: Soils
- Policy 52: New Development and Flooding
- Policy 53B & C: Water Environment and Drainage
- Policy 53E: Water Environment and Drainage: Water Supply
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 56: Noise Pollution
- Policy 58A: Contaminated Land
- Policy 58B: Contaminated and Unstable Land: Unstable Land
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

### **Other Policies**

#### **Developer Contributions and Affordable Housing Supplementary Guidance April 2020**

- 19 This document sets out the Council's policies on Developer Contributions in relation to Primary Education and Transport Infrastructure/A9 junction upgrades, as well as setting out what Affordable Housing provision is required for new developments.

#### **Placemaking Guide 2020**

- 20 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

### **SITE HISTORY**

- 21 [21/00666/FLL](#) Change of use from agricultural land to equestrian business and dog exercise area comprising of outdoor riding arena, tracked livery, shelters, tack rooms, office/toilet block, access track, car parking, fencing/floodlighting, siting of a mobile home (temporary residential accommodation) and associated works) – Application Withdrawn in order to resolve issues in relation to the private access.

### **External**

#### **The Coal Authority**

- 22 No objection subject to a condition requiring further ground investigations as per the recommendations of the Mineral Stability Risk Assessment.

#### **Scottish Water**

- 23 No objections received.

## **Cleish and Blairadam Community Council**

- 24 Object to proposals on the basis that the development will impact on the character of the landscape, impact on nearby residential amenity, proposals are not economically sustainable and road safety concerns.

### **Internal**

#### **Transport Planning**

- 25 No concerns in respect to road safety subject to provision of proposed localised road widening and condition relating to access onto Benarty Road.

#### **Structures and Flooding**

- 26 No objection but previously recommended condition to ensure that storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems.

#### **Environmental Health (Noise Odour)**

- 27 No objection subject to conditions relating to the Noise & Waste Management Plan, control of plant noise, control of external lighting and restrictions to servicing hours.

#### **Environmental Health (Contaminated Land)**

- 28 No objection but highlight potential ground stability issues and ground contamination associated with previous coal mining operations. Recommend condition requiring further assessment of ground contamination.

#### **Development Negotiations Officer**

- 29 No contributions required.

#### **Commercial Waste Team**

- 30 No objection but previously advised that there is a requirement for a waste collection point which meets with the Councils specifications.

### **REPRESENTATIONS**

- 31 A total of 23 valid letters of representation have been received, including one letter from Cleish and Blairadam Community Council. Of the 23 letters, 2 are in support and 21 object.

- 32 The 2 letters of the support raise the following points:

- Proposals are sympathetic to area and local environment
- Solar light will not impact on neighbouring amenity
- Previous concerns regarding noise pollution have been addressed

- Maintenance and repair of road during construction phase
- Enhances character of area

33 The 21 letters of objection raise the following points:

- Out of character with area
- Lack of operational and locational need
- Unsustainable business
- Impact on road safety
- Impact on visual amenity / landscape character
- Contrary to Local Development Plan
- Scale of development
- Loss of green space
- Overlooking / loss of privacy
- Potential ground gases
- Ground conditions
- Odour
- Noise
- Light Pollution
- Impact on Biodiversity
- Air pollution from vehicles
- Waste management
- Lack of information relating to SUDS drainage and water supply
- Flood risk
- Potential impact on trees

34 In addition to the above, concerns have also been noted in regard to existing provision of equestrian and dog walking facilities locally and claimed unauthorised activities on the land to the north of the site which is not associated with the applicant. Neither of these points are considered to be material considerations in the assessment of this application.

35 The above valid points are addressed in the Appraisal section of the report.

#### **ADDITIONAL STATEMENTS**

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	Habitats Regulations AA Not Required
Design Statement or Design and Access Statement	Supporting Planning Statement and Business Justification Statement submitted
Report on Impact or Potential Impact	Mineral Stability Risk Assessment submitted

## **APPRAISAL**

- 36 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 2 2019 (LDP2).
- 37 In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is relevant and requires planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the designated conservation area.
- 38 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 Council's other approved policies and supplementary guidance, namely the Placemaking Guide 2020, Housing in the Countryside Guide 2020, Affordable Housing and Developer Contributions 2020 and Landscape Supplementary Guidance 2020.

### **Principle**

#### Equestrian Use and Dog Exercise Area

- 39 Policy 1 of the TAYplan advocates the developing of land within the principal settlements rather than developing land outside of them. It does however acknowledge the need to sustain rural economies while protecting the countryside where it genuinely contributes to the outcomes of the Plan, however, suburbanisation of the countryside and unsustainable travel and development patterns should be avoided.
- 40 The implementation of this principle has been translated into LDP2 with Policy 6 'Settlement Boundaries' stipulating that for settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.
- 41 Although the proposal is not located within the settlement boundary and therefore fails to comply with Policy 1 of TAYplan and Policy 6 of LDP2, there are exceptions that can be made to this presumption against development outwith a settlement boundary through Policy 8: Rural Business Diversification.
- 42 This policy is supportive of new rural businesses and whilst there is a preference that this will generally be within or adjacent to existing settlements, sites out with settlements may be acceptable where they offer opportunities to diversify an

existing business or are related to an existing site-specific resource or opportunity. As such, in this instance an application requires to adequately demonstrate that this particular site presents a site-specific resource or opportunity for the creation of an equestrian business.

- 43 In addition to the above, the policy also requires that all the following criteria are met:
- a) The proposal will contribute to the local economy through the provision of permanent employment, visitor accommodation (see also Policy 9), additional tourism or recreational facilities, or the re-use of existing buildings.*
  - b) The proposal will not result in suburbanisation of the rural area or encourage unsustainable travel patterns.*
  - c) The proposed use is compatible with the surrounding land uses and will not detrimentally impact on the amenity of residential properties within or adjacent to the site.*
  - d) The proposal can be satisfactorily accommodated within the landscape and environmental capacity of the site.*
  - e) The proposal meets a specific need by virtue of its quality or location in relation to existing business or tourist facilities.*
  - f) Where any new building or extensions are proposed they should achieve a high quality of design to reflect the rural nature of the site and be in keeping with the scale of the existing buildings.*
  - g) The local road network must be able to accommodate, or be capable of upgrading in order to accommodate, the nature and volume of the traffic generated by the proposed development in terms of road capacity, safety and environmental impact.*
- 44 In respect to the preference that development should be within or adjacent to existing settlements, it is generally acknowledged that a business such as this will normally be located in a rural area and this type of use cannot normally be suitably located within a settlement given the need for outdoor grazing, fields and access to the countryside for riding, hacking and walking dogs. As such, it is considered that the location of the site being out with an existing settlement is not a significant issue. It is also noted that the site is not within a remote landscape and would be viewed in context with other built development in the immediate area. Nevertheless, the proposals do need to demonstrate compliance with the criteria listed above in paragraph 43.
- 45 In respect to criterion (a), the applicant has provided a Business Plan that forecasts that the proposed development will not only be a financially viable business but will also have a labour requirement of 3.6 labour units. The business will be operated by the applicants, with the remaining labour requirement providing either one-person full time or two people part time employment. It is also hoped that in time, the business would be capable of supporting a further full-time position. Whilst the level of employment is quite small, it will contribute to the local economy through the provision of permanent employment and therefore complies with criterion (a) of Policy 8.

- 46 Criterion (b) seeks to avoid suburbanisation of the countryside. It is considered the proposal will not result in the suburbanisation of the area as it proposes development associated with a rural use which is commonplace in a countryside location such as this. The development is relatively modest and can be accommodated within the site without significant detriment to the visual amenity and rural character of the area. The proposal is also not considered to create unsustainable travel patterns which is referenced in more detail below in paragraph 85 and 86. The proposal is therefore considered to meet the criteria outlined in (b) above.
- 47 In terms of criteria (c) there are a number of residential buildings close to the proposed site. Assessment of this issue is outlined in paragraphs 61 - 66 below and concludes that the use of the land for equestrian purposes is not considered to be of detriment to residential amenity and can be adequately controlled through the use of conditions relating to odour and waste management, lighting and noise from plant and machinery. The proposal is therefore considered to meet criteria (c).
- 48 The proposal can be successfully accommodated within the landscape of the area as identified in paragraphs 71- 76 below and therefore meets criteria (d).
- 49 Criteria (e) requires a development to meet a specific need by virtue of its quality or location in relation to existing business or tourism facilities. The supporting information sufficiently demonstrates that there is a market for the intended use.
- 50 Criteria (f) requires development to be of a high-quality design. The scale, design and finish of the proposed modest structures and their relationship to the landscape is considered to be acceptable as outlined within paragraphs 58 - 60 below. The proposal is therefore considered to meet the criteria outlined in criteria (f).
- 51 Criteria (g) requires the local road network to be capable of accommodating the development. This is considered in more detail in paragraphs 81 - 84 below. Based upon the assessment below the local road network is considered to be capable of accommodating the traffic associated with this development subject to inclusion of the proposed localised road widening and the provision of an adequate visibility splay at the new junction onto Benarty Road.
- 52 As such the proposal is considered to accord with the criteria contained within policy 8 of LDP2.

#### Temporary Accommodation

- 53 The submission includes information to support the provision of permanent residential accommodation on the site, but the applicant has chosen to seek permission for the business first, whilst also seeking permission for the siting of a mobile home for a temporary period to allow the business to become established. Permission will then be sought for a permanent dwelling at a later date once the business has become well established. Whilst the proposal is not for a permanent dwellinghouse, it is considered to prudent to assess the

provision of the temporary accommodation which is to be occupied by the applicant year-round under the Housing in the Countryside Policy, Policy 19.

54 Through Policy 19 and the associated Supplementary Guidance (SG) 2020, it is acknowledged that opportunities do exist for housing in rural areas to support the viability of communities, meet development needs in appropriate locations while safeguarding the character of the countryside as well as ensuring that a high standard of siting and design is achieved. Thus, the development of single houses or groups of houses which fall within the following six identified categories will be supported:

- 1) Building Groups
- 2) Infill site
- 3) New houses in the countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance
- 4) Renovation or replacement of houses
- 5) Conversion or replacement of redundant non-domestic buildings
- 6) Development on rural brownfield land

55 Category 3 is applicable which allows for the development of housing where there is an identified need and relates to economic activity. The SG states that for new businesses where a house is to be associated with a proposed economic activity, construction of the house will not be permitted in advance of the development or expansion of the business. Providing that the need for on-site accommodation is demonstrated, the provision of temporary accommodation, such as a mobile home, may be acceptable for a set period of time.

56 In this case the submission indicates that there is a requirement to be located onsite to care for the horses and provide security. This justification is considered to be sufficient given the nature of the business operation on site, however given the temporary nature of the caravan, a condition is recommended to ensure it is sited for a temporary period only and that the mobile home is removed, and the site returned to its original condition prior to the expiry of the temporary period of 3 years (Condition 8).

57 As such the proposed temporary accommodation is considered to comply with the requirements of Policy 19 of LDP2 and its associated SG.

### **Design and Layout**

58 Generally, the design and scale of development should respect its surroundings and adhere to Policies 1A and B of LDP2, which relate to placemaking. Further guidance is also provided within the associated Placemaking Supplementary Guidance.

59 The proposed development relates to a relatively large site, but the physical built development is quite modest, comprising of a shelter/store, two small buildings containing a tack room and shelters, and a temporary mobile home. These buildings are positioned within the upper plateaux of the site which provides a

logical layout as this area of the site is relatively flat reducing the need for excessive under build. It also places the built development within a less visually intrusive position, further from away from nearby housing on Benarty Road and Blairfordel Farm. The finish of the permanent structures is of a high quality, with the two tack rooms/stores clad with timber and slate and the larger shelter/storage building clad with wood but with a grey corrugated roof.

- 60 Overall, the proposed buildings will not be dissimilar to many small farm holdings and agricultural buildings found throughout the area and is considered to be of an appropriate scale and design. As such the development is conducive to the rural character and visual amenity of the area as required by Policies 1A, 1B and the criteria outlined within Policy 8 of LDP2

### **Residential Amenity**

- 61 Policies 1A, 1B and 56 of LDP2 relate to residential amenity and noise pollution and seek to ensure that residential amenity is maintained and that there is a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing noise sensitive uses. Planning control has a duty to future occupiers not to create situations of potential conflict between neighbours. Cognisance of the surrounding land uses has to be taken into account. The land is surrounded by agricultural land, but there are a number dwellinghouses located in the immediate area that could be impacted by noise and odour arising from the operation of the site.
- 62 There is potential for odour complaints unless waste is managed appropriately. Unless manure is stored and removed correctly from site and good husbandry and procedures for storage are in place, the equestrian centre has the potential to affect residential amenity. There is also the potential for noise resulting from dog barking within the dog exercise area.
- 63 In order to address these concerns it is standard practice to require Noise & Waste Management Plan (NWMP) which sets out all of the operating practices and ensures that adequate controls are set in place to address both the control of waste on site and noise from any activities.
- 64 In consultation with Environmental Health, the applicant has produced a detailed NWMP that sets out all of the various operating practices including hours of operation, timing of external lighting, storage and disposal of manure and a complaints procedure that ensures that any issues are logged and address by a suitable point of contact. The NWMP has been reviewed by the Environmental Health Officer who has confirmed that the document and the measures proposed are acceptable subject to a condition that seeks to ensure that the requirements of the plan are strictly followed (Condition 4).
- 65 In addition to the above, it is noted that concerns have been expressed regarding overlooking and impact on the privacy of the housing to the south east on Benarty Road. The proposed development is not considered to result in any issues relating to overshadowing or overlooking given the layout of the site and its proximity to neighbouring dwellings. The existing housing on Benarty Road will have a shared boundary but all of the built development and activity

associated with the business, such as the arena, livery and dog exercise area, will be over 80 metres from the rear gardens of these properties. Furthermore, the housing on Benarty Road is both situated downhill from the site and will be largely screened from view by the existing mature woodland belt.

- 66 Overall, the proposal is considered to be acceptable in terms of the residential amenity of neighbouring properties and that of the future occupiers of the dwelling and therefore in accordance with the placemaking policies 1A and 1B and Policy 56 of LDP2.

### **Light Pollution**

- 67 Policy 55 of LDP2 states that consent will not be granted for proposals where lighting would result in obtrusive or intrusive effects. It is proposed that outdoor arena and fenced dog walking area will be illuminated by pole mounted low powered solar lighting. It is stated that the lighting will only be required for a maximum of two hours a day in the height of winter and within the operating business hours.
- 68 It is noted that a number of concerns have been raised through the letters of representations received regarding the operation of any external lighting, however it is considered that the measures proposed by the applicant will provide adequate lighting to enable the business to operate safely without having a significant impact on the amenity of the wider area. The limited use of the lighting and low wattage will also greatly reduce any impact, particularly during the winter months. The proposed lighting will also be seen in the context of the existing lighting at other building groupings within the vicinity of the site. The proposal is therefore not considered to generate any significant light pollution.
- 69 Environmental Health have also reviewed the proposed external lighting proposals and advise the proposals are acceptable subject to a condition that requires that all lighting is 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 (Condition 7). This will ensure the Planning Authority maintains control over light spill and brightness. The proposal is therefore considered to comply with Policy 55 of LDP2.

### **Landscape and Visual Amenity**

- 70 Policy 39 'Landscape' requires proposals to be compatible with the landscape character of the area. Any proposal should be a good fit with the landscape and amongst other things not erode local distinctiveness. Development and land use change should be compatible with the distinctive characteristics and features of Perth & 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.
- 71 The Council's adopted Landscape Supplementary Guide 2020 is applicable in respect to considering the potential landscape considerations from the proposed development. This guidance identifies the site as being located within

the Loch Leven and Lomond Hills Local Landscape Area where the main objectives are as follows:

- Maintain accessibility of this area for diverse user groups, and for diverse sport and recreational uses from bird watching to gliding
- Retain and expand native or other appropriate woodland coverage around the loch and on the adjacent hills while retaining the dramatic open landform
- Maintain special character of lochside buildings and designed landscape features, including those not listed on the Historic Scotland Inventory
- Manage agricultural land around the loch to provide benefits for biodiversity and habitats
- Increase the extent of wetland around the loch in order to enhance this internationally important wildlife site
- Ensure particular care in siting and design of potentially intrusive structures such as masts and wind turbines

- 72 It is noted that a number of concerns have been raised in respect to impact of the proposed development on the local landscape. Whilst it is accepted that any development within this site will have some degree on visual impact, it is considered that the scale and extent of development in this instance is quite modest and does not give rise to any significant concerns in respect to the objectives listed above. A large proportion of the existing site is exposed to views, with the lower sloping area of the site being open to views from Benarty Road and from the southern approach from Kelty on the B996. However, the development by its very nature, retains much of the character of the existing site, with the vast majority of the site retained as open space. Furthermore, the most sensitive southern sloping area of the site will not featuring any buildings or notable built development other than the proposed access and fencing associated with the dog exercise area.
- 73 In addition, the layout of the proposed development utilises the existing landform, positioning the majority of the built development within the flat upper section of the site which lies beyond the crest of the hill, thereby lessening the visual presence of development, particularly when viewed from Benarty Road. The applicant also utilises the existing pocket of the land within the eastern area of the site which is well contained by existing mature woodland, positioning the temporary mobile home and private tack room/shelter within this area.
- 74 It is also important to highlight that the development is not dissimilar in scale or design to the small, scattered farm buildings and rural development found throughout the local landscape. It will also be viewed in context with the existing built development in the immediate area.
- 75 Overall, it is considered that the proposed development relates successfully to the established landscape character of the area and therefore complies with Policy 39 of LDP2.

## **Trees and Landscaping**

- 76 The proposed site itself is a large sloping area of open farmland that does not contain any trees. However, there is a relatively dense woodland belt of mature trees that runs adjacent to the south eastern boundary of the site. These existing mature trees have quite a presence within the immediate landscape and provide robust visual screening between the proposed site and the linear row of houses on Benarty Road. The proposed plans do not indicate that any works will be undertaken within the proximity of these mature trees but, given the importance of these trees it is considered prudent to condition their protection for the duration of the construction works (Condition 12).
- 77 There are also a number of self-seeded trees and shrubs alongside the southern extent of the site with Benarty Road but these are of less significance. The junction access onto Benarty Road will require the removal of a number of trees but again, these are not considered to be of any significance and the loss of these trees will not have any significant impact on the character of the area.
- 78 In respect to the provision of landscaping within the proposed site, the applicant is not proposing any significant additional planting. The existing landscape setting is considered to provide an acceptable degree of containment to the site with the mature woodland to the east and south east, along with a strong landscape backdrop provided by Benarty Hill. Some additional landscaping is however proposed along the lower southwest edge of the site adjacent to the housing at Blairfordel Farm which will improve the landscape containment and provide additional screening from the housing to the west. A condition has been applied to ensure that details of all the proposed soft landscaping are provided in advance of the development commencing (Condition 13).
- 79 Overall, the proposal in terms of landscaping and impact on trees is considered to be acceptable. Appropriate existing mature landscaped boundaries exist around the site which help to provide the site with some landscape containment. The small scale of physical built development and strong landscape backdrop will also reduce the impact of the proposed development. The proposal is therefore considered to comply with policies 39 and 40 of LDP2 regarding landscaping and trees.

## **Roads and Access**

- 80 The proposed site will be accessed via a new junction onto Benarty Road which is a private access and not publicly maintained. A number of concerns have been expressed regarding the impact of the proposed development in respect to road safety due to the additional traffic generated by the development.
- 81 The Council's Transport Planning Team have reviewed the proposals and considered the concerns expressed in relation to road safety. In discussion with the Transport Planning colleagues, it is considered that the scale of the proposed development is unlikely to generate any significant levels of traffic and much of this traffic would be spread throughout the day. It is also considered that there are no road safety issues at the Benarty Road junction with the B996. The road and verges are wide and straight, with excellent visibility and the surfacing at

the junction onto the B996 is of an acceptable standard. However, during the assessment of the previous application it was considered that additional provision for vehicles passing Benarty Road would be required to improve traffic movement and improve safety for all road users. The provision of visibility splays, particularly to the west along Benarty Road was also highlighted as an issue.

- 82 The applicant has now identified a section of the roadway that will be widened in order to allow vehicles to pass and the visibility splay at the proposed new access onto Benarty Road has now been identified. These proposed measures have been reviewed by the Transport Planning Team who are now satisfied with the proposed development subject to a condition regarding the standard of the new junction onto Benarty Road (Condition 10)
- 83 As such, the proposal is considered to accord with Policy 60B of LDP2 and the requirements of the National Roads Development Guide.

### **Sustainability/Travel Patterns**

- 84 Policy 8 criteria (b) states that a development should not encourage unsustainable travel patterns. Equestrian based uses are by their very nature, located in countryside locations and generally can be an unsustainable form of development in terms of governmental policy as they are totally reliant on the car and are likely to be required in rural locations that are some distance from other communities and their attendant services. However, to enforce this policy rigidly would deny a use altogether that public policy has endorsed as having a continuing role to play in the development of recreational uses, and therefore lack of sustainability is not often a determining issue. The nearer a site is to a settlement and facilities the shorter car journeys are likely to be which is better in terms of overcoming any objections on sustainability grounds.
- 85 In this instance, the site is within close proximity to Kelty, with very good transport links both north to Kinross and south to Dunfermline. The proximity of the site to nearby settlements will reduce the distance travelled by car to the site to a certain degree. The proposal is therefore considered to be appropriate in terms of sustainability in travel.

### **Flooding and Drainage**

- 86 SEPA's indicative flood maps do not identify the site as being at risk to flooding and there are no identified issues or concerns in respect to flooding at the site. The maps do however indicate that there is an area on the south eastern edge of the site, to the north of the linear group of houses on Benarty Road which is prone to surface water flooding. This pocket of surface water flooding appears to be largely outwith the site but concerns have been expressed by local residents that the development may exacerbate the issue.
- 87 In this regard, the Council's Flood Team have previously been consulted and they did not raise in any concerns in respect to flooding but a condition requiring adequate surface water drainage is recommended (Condition 14). It is also important to note that the development does not propose to undertake any groundworks in close proximity to the area of surface water flooding and subject

to the provision of adequate surface water drainage measures, the development should not increase the risk.

- 88 In respect to wastewater drainage, the applicant is proposing to install a private septic tank and soakaway arrangement within the site. Given that the proposal is in a rural area that is not served by a public wastewater network, it is considered that the proposed private wastewater drainage measures are acceptable and in accordance with Policy 53B of LDP2.

### **Ground Stability**

- 89 The site falls within an area of former underground workings for the purpose of mining coal and is regarded as high risk. The Coal Authority has also designated the area as a "Substantive Concern (Public Safety)". Environmental Health has also advised that this site has, as recently as the 1990's, been worked as an open mine. Whilst the site has reinstated, the quality of the reinstatement works, and conditions of the ground remains unknown.
- 90 In response to the concerns noted by both the Coal Authority and Environmental Health, the applicant has undertaken a Mineral Stability Risk Assessment. This report outlines that it is highly likely that the coal seams / mine entries will have been removed and that if the mine entries have not been removed in their entirety, it is likely that these are in excess of 15m below the existing site levels and / or have been treated as part of the reinstatement works. It also recommends that any permanent development at this site is likely to require specialist foundations (reinforced rafts) rather than ground stabilisation works and the mine entries should either include the placement of a geogrid within the recorded areas, which would remove the potential for collapse at the surface, or alternatively these specific areas could be permanently and securely fenced to prevent egress of livestock and site visitors.
- 91 However, the report also concludes that in order to confirm what, if any residual mineral stability risk remains and thereafter what investigations or remedial and mitigation measures are considered necessary, a further assessment is required.
- 92 The report has been reviewed by the Coal Authority and they are satisfied with its conclusions and recommendations. However, they have recommended that the requirement for further intrusive site investigations and the subsequent completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity be covered by condition (Condition 2).

### **Contaminated Land**

- 93 As outline above, the site falls within an area of former underground workings for the purpose of mining coal and the ground conditions are unknown. It is possible that the ground could contain contaminants either from the former mine workings or the ground sourced to reinstate the site during the 1990's. As such, Environmental Health has recommended that further ground contamination assessments must be undertaken prior to the commencement of development in

order to ensure that the ground conditions are acceptable. This has been conditioned accordingly (Condition 3).

### **Natural Heritage and Biodiversity**

- 94 Policy 41 'Biodiversity' of LDP2 seeks to protect and enhance all wildlife and wildlife habitats whether or not formally designated.
- 95 It is noted that concerns have been expressed regarding the impact on the development on local wildlife and protected species. The site in question is a large open arable field that does not have any protected status and does not exhibit any notable features that would suggest that there are protect species or habitats within the site. The Council's GIS database does not also identify any specific protected wildlife within the development site. It is therefore considered that an Ecological Survey is not necessary in this instance.
- 96 In any case, in discussion with the Council's Biodiversity Officer, it is considered that whilst there will inherently be a range of wildlife that will frequent the site, the proposed development will largely retain the open nature of the site and will not have any significant impact on foraging or movement wildlife within the area.
- 97 As such, the proposed development will not result in any significant impact on natural heritage or biodiversity and therefore complies with Policy 41 of LDP2.

### **Agricultural land**

- 98 The majority of the site is identified as Class 4.2 non-prime agricultural land which is capable of producing a narrow range of grass. A smaller area of the site to the west is identified as Class 4.1 non-prime capable of producing a narrow range of grass, fodder and cereal.
- 99 Policy 50 and 51 of LDP2 seeks to ensure that developments on good quality soils are restricted to avoid the loss of these quality soils for crop production. As the soil on site is non-prime land it is considered that the proposals will not have substantial agricultural value in terms of soil classification. Furthermore, the built footprint of the development is relatively small, and the site could easily revert back to farmland at any point in the future.
- 100 It is therefore considered that the proposed site would not impact significantly on the use of land for crop production and therefore complies with policy 50 and 51 of LDP2.

### **Cultural Heritage**

- 101 The proposed site is located to the east of Blairfordel Farm which is identified as a Category C Listed group of buildings. Whilst this group of building is located nearby, the only element of the proposals that will come into close proximity with this building group is the tracked livery. The remaining buildings and built development will be positioned over 250 metres northeast and as such, will have no significant impact on the character or setting of the listed group at Blairfordel Farm.

- 102 As such the proposals comply with the requirements of Policy 27A 'Listed Buildings' which seeks to protect the character and setting of listed buildings.

### **Developer Contributions**

- 103 The proposed site is located out with any area where financial contributions towards roads infrastructure and it would not be reasonable to require an education contribution for the temporary accommodation. As such, the Developer Contributions Supplementary Guidance is not applicable to this application and therefore no contributions are required in this instance. However, it should be highlighted that any future proposals for a permanent house will be subject to assessment against the Developer Contributions and Affordable Housing Supplementary Guidance 2020, with particular regard to education infrastructure.

### **Embedding Low & Zero Carbon Generating Technologies**

- 104 Policy 32 'Embedding Low & Zero Carbon Generating Technologies in New Development' of the recently adopted LDP2 states that all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. It further specifies that a statement must be submitted demonstrating compliance with this requirement.
- 105 Given the nature of the barn and office/tack room, it is considered that this policy is not applicable to those elements of the proposals. Furthermore, given the residential accommodation is only a temporary measure, there is also no need to require compliance with Policy 32. However, the policy will be applicable to any future application for a permanent dwelling within the site.

### **Economic Impact**

- 106 The objective of Scottish Government Economic Strategy (2015) is to build a more dynamic and faster growing economy that will increase prosperity, help tackle Scotland's health and social challenges and establish a fairer and more equal society. Sustainability is vital to help protect the environment and ensure that future generations can enjoy a better quality of life.
- 107 It is considered that it is undoubtable that there will be some economic benefit associated with the operation of the site, but the economic benefit has to be seen in the context of the spatial strategy and general policies of the Local Development Plan.
- 108 When looking at Economic Development Policy 8 'Rural Business and Diversification' the submitted supporting information statement is considered sufficient to demonstrate that the proposal is an appropriate rural business development in accordance with Policy 8 of LDP2 as is referenced elsewhere in this report.

## **Neighbour Notification**

- 109 The neighbour notification and advertisement undertaken for the application has been carried out in accordance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

## **VARIATION OF APPLICATION UNDER SECTION 32A**

- 110 This application was not varied prior to determination.

## **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

- 111 Not applicable.

## **DIRECTION BY SCOTTISH MINISTERS**

- 112 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**

- 113 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). Account has been taken account of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 114 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Conditions and Reasons for Recommendation**

1. The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.  
  
Reason - To ensure the development is carried out in accordance with the approved drawings and documents.
2. Prior to the occupation of the development, or it being brought into operational use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for written approval. This document shall confirm the methods and findings of any intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason - In the interests of safety and to ensure that all required remedial works and/or mitigation to address any coal mining legacy are undertaken.

3. Development shall not begin until a scheme to deal with contamination and general condition of the site post minerals abstraction at the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
  - I. the nature, extent and type(s) of contamination on the site
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
  - III. measures to deal with contamination during construction works
  - IV. condition of the site on completion of decontamination measures

Before any use is made of the application area the measures to ensure the sites suitability for the proposed use for which planning was granted shall be fully implemented as approved by the Planning Authority.

Reason - In order to deal with any potential contamination of the site as a result of its former use.

4. The Noise & Waste Management Plan (NWMP) (plan ref 25 hereby approved) shall be strictly adhered to during the operation of the site. The NWMP shall be a fluid document which shall be updated regularly to reflect any changes to the operation of the site and to address any substantiated complaints by residents. The details contained within the approved NWMP shall be implemented in full as part of the operation of the site to the satisfaction of the Council as Planning Authority.

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

5. 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 the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

6. Servicing, maintenance of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no maintenance, servicing or deliveries permitted on Sundays.

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

7. All external lighting 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 to a degree that it does not adversely affect the amenity of the neighbouring land.

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

8. The mobile home accommodation is approved for a temporary period only until 31<sup>st</sup> March 2025. Upon expiry of this temporary period the mobile home shall be removed from the site and the site returned to its original condition all to the satisfaction of the Council as Planning Authority.

Reason - In view of the temporary nature of the accommodation and to enable the Planning Authority to review the circumstances pertaining to the proposal within a reasonable period of time.

9. Prior to the commencement of works on site, detailed drawings showing waste and recycling facility enclosures or waste and recycling facility storage areas and associated locations for bin presentation shall be submitted for the written agreement of the Council as Planning Authority.

Reason - In order to ensure adequate servicing facilities are provided.

10. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type C Figure 5.7 access detail, of Type B Road construction detail.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

11. Prior to the development hereby approved being completed or brought into use, the proposed localised road widening identified on plan ref 03 hereby approved shall be undertaken to satisfaction of the Council as Planning Authority. For the avoidance of doubt the surface of localised road widening shall be bituminous bound to match that of the existing road surface.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

12. Prior to the commencement of any works on site, all trees on site (other than those either identified for removal on the plans or to be removed to form the access and road widening on Benarty Road) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

13. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason - To ensure the provision of effective drainage for the site.

14. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.

Reason - To ensure the provision of effective drainage for the site.

## **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.

4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

6. Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

7. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
8. This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. The required information must be submitted via the ePlanning portal if your original application was lodged that way, otherwise send it to us at [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk). Please be aware that the Council has two months to consider the information (or four months in the case of a Major planning permission). You should therefore submit the required information more than two months (or four months) before your permission expires. We cannot guarantee that submissions made within two months (or four months) of the expiry date of your permission will be able to be dealt with before your permission lapses.

9. The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
10. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
11. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.

For the avoidance of doubt, the waste storage provision should be enclosed and provide the following bins:

- 1 x 1100L general waste containers
- 1 x 1100L Dry mixed recycling containers.

If the applicant has different types of waste or expects different quantities than mentioned above information on services available can be obtained from [www.pkc.gov.uk/commercial](http://www.pkc.gov.uk/commercial).

Background Papers: 23 letters of representation  
Contact Officer: David Niven  
Date: 3 March 2022

**DAVID LITTLEJOHN  
HEAD OF PLANNING & DEVELOPMENT**

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

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