

**LRB-2020-22 – 20/00288/FLL – Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross**

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**LRB-2020-22 – 20/00288/FLL – Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**Failure to supply all the relevant information could invalidate your notice of review.**

Use **BLOCK CAPITALS** if completing in manuscript

## Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

## Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

Mark this box to confirm all contact should be  
through this representative: ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed  
development

Date of application

Date of decision (if any)

**Note.** This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

- |  |                                     |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application)   | <input checked="" type="checkbox"/> |
| 2. Application for planning permission in principle  | <input type="checkbox"/>            |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/>            |
| 4. Application for approval of matters specified in conditions   | <input type="checkbox"/>            |

**Reasons for seeking review**

- |   |                                     |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer  | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/>            |
| 3. Conditions imposed on consent by appointed officer   | <input type="checkbox"/>            |

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- |   |                                     |
|---|-------------------------------------|
| 1. Further written submissions                                    | <input checked="" type="checkbox"/> |
| 2. One or more hearing sessions                                   | <input type="checkbox"/>            |
| 3. Site inspection  | <input type="checkbox"/>            |
| 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/>            |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

It is our opinion as explained in the Word document "Response to the Reasons for Refusal" that the reasons stated are not valid and have been incorrectly interpreted & applied.

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Whilst the LRB can undertake an unaccompanied site inspection, greater benefit would be gained by having one of charity trustees present during the visit to answer any questions that may arise.

**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See separate word document entitled - Response to Reasons for Refusal

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes

☐

No

☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

## List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. Response to Reasons for Refusal
2. Supporting Documentation
3. Fields in Trust approval
4. Location plan
5. Proposed Block Plan
6. Dugout schematic
7. Fencing at each end of proposed development area
8. Spectator fencing
9. Shed details

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

## Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

**Note.** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

## Declaration

**I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.**

Signed

Gurdial Duhre

Date

15 August 2020

## **This document is written as Response to “Reasons for Refusal”**

1. The proposal is contrary to Policy 17 Residential Areas of the Perth and Kinross Local Development Plan 2 2019 as the development would remove an existing buffer between the dwellings and the recreational sports pitch which would be detrimental to the residential amenity of the existing dwellings.

Kinross Astro Scio (KAS) are of the opinion that to refer to the playing fields as “Residential Areas” is incorrect. Insufficient weight has been attached to the designation of the area under development. The hockey pitch is situated within a parcel of land constituted as “King George V Playing Fields (KGV PF). The Trust that created KGV PF defined a playing field as “any open space used for the purpose of outdoor games and sports”. The land so designated had to be developed “in some way for playing on... gardens and parks for example are not accepted”. The application has the support of Fields in Trust the ultimate custodians of the land. KAS are seeking to improve the quality of facility provided, thereby ensuring that it remains in the centre of Kinross for the use of future generations, when all around us land is being lost to housing developments (in the last few years: land adjacent to the Green Hotel, Lathro Park, Springfield and now the Windlestrae Hotel & Spa).

There is no removal of the “*existing buffer*”. The area proposed for development is already used by players, teams and spectators. The plans merely provide a more fitting facility for the reasons given in the Word document that went with the original application entitled – “Supporting Documentation PKC”.

In fact policy 17 supports our application (it is our underlining) in 4 of the 5 subsections detailed below:

Policy 17 states - *Generally, encouragement will be given to proposals which fall into one or more of the following categories of development and which are compatible with the amenity and character of the area:*

*(a) Infill .... development ... which represents the most efficient use of the site while respecting its environs.*

*(b) Improvements to [shopping] facilities where it can be shown that they would serve local needs of the area.*

*(c) Proposals which will improve the character and environment of the area or village*

*(d) Business, homeworking, tourism or leisure activities.*

*(e) Proposals for improvements to community and educational facilities.*

2. The proposal is contrary to Policy 1 Placemaking of the Perth and Kinross Local Development Plan 2 2019 as the formation of the hardstanding and loss of the trees would not respect the character and amenity of the place and would detrimentally impact the wider visual amenity.

Policy 1 has four Sections. Again it's our underlining.

Section 1A - Development must contribute positively to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change, mitigation and adaptation.

The design, density and siting of development should respect the character and amenity of the place, and should create and improve links within and, where practical, beyond the site. Proposals should also incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.

Points in response

- i) The KAS development is adapting to the advancement in sports facilities whereby artificial surfaces are proving to be cheaper to maintain and achieve greater usage by participants.
- ii) "The place" (referred to the Refusal decision) is the Playing Fields and not within a housing development. The plans respect and improve the amenity with no detrimental impact. It is the least intrusive area of the grounds to develop as the 6ft wall screens it off fully.
- iii) "would detrimentally impact the wider visual amenity". The aerial photograph demonstrates clearly that the exact opposite is in fact true. The development is in a space which is the least visible from the three existing housing rows. If it was placed on the eastern aspect of the pitch (which it can't because of insufficient space between it and the rugby pitch) then all three aspects would see it clearly. It also provides sensitive landscaping to "soften" the wall thereby improving the visual amenity.

Section 1B concerns itself primarily with housing developments but does mention in paragraph (f) Buildings and spaces should be designed with future adaptability, climate change and resource efficiency in mind wherever possible. Precisely what the KAS development wishes to deliver; adapting the area to meet future needs and improve spectator & playing facilities.

Section 1C – covers larger developments (more than 200 houses or 10 hectares) but still states that... Neighbourhoods should seek to meet the key needs of the residents or businesses within or adjacent to the neighbourhood, ie local shopping, recreation, recycling etc.

Section 1D merely deals with housing capacity ranges.

3 The proposal is contrary to Policy 40A Forestry and Woodland Strategy of the Perth and Kinross Local Development Plan 2 2019 which seeks to encourage the protection of management of groups of trees of amenity value.



Policy 40A: Forest and Woodland Strategy

The Council will support proposals which:

- (a) deliver woodlands that meet local priorities as well as maximising benefits for the local economy, communities, sport and recreation and environment;*
- (b) protect existing trees/woodland including orchards, especially those with high natural, historic and cultural heritage value;*
- (c) seek to expand woodland cover in line with the guidance contained in the Perth and Kinross Forest and Woodland Strategy Supplementary Guidance;*
- (d) encourage the protection and good management of amenity trees, or groups of trees, important for visual amenity, sport and recreation or because of their cultural or heritage interest;*
- (e) ensure the protection and good management of amenity trees, safeguard trees in Conservation Areas and trees on development sites in accordance with BS5837 'Trees in Relation to Construction';*
- (f) seek to secure establishment of new woodland in advance of major developments where practicable and secure new tree planting in line with the guidance contained in the Perth and Kinross Forest and Woodland Strategy. The planting of native trees and woodland will be sought where it is appropriate.*

In response –

- a) This is not a woodland
- b) The trees have no historic or cultural value
- c) Woodland cover cannot be expanded, they are sports fields
- d) This is the only subsection that could possibly considered relevant and is expanded upon below
- e) It is outwith the Conservation Area
- f) This is not a major development

So are the trees important for visual amenity, subsection (d) ? The three trees in question are deciduous and have no roosting unlike the other three which is why in consultation with the neighbour they are being retained. Unlike other developments within Kinross KAS have proposed to replant an equivalent number in consultation with KGV. The suggestion would be to plant at the southern aspect as the (second) photo below shows there is a lack of screening from the rugby pitches from that aspect.

The photograph below was taken in April. The perspective makes the trees appear a lot larger than they are with the houses that are set further back.



For proposed removal.

The same three trees are enclosed in the photograph below.



Visual buffer and screening provision. There are four properties abutting the western aspect of the pitch. Going northwards, the first residence (north of St Pauls Church) has no trees between it and the pitch and has not objected to the development. The second property has no trees between the house the pitch. The southernmost tree is growing next to the shed/garage. The next tree is at the border of the next property. The third tree is also not actually in front of the house. The league season goes from the end of September to Easter. Floodlights are used from mid/late October to mid/late March. During the whole of that period those trees have no leaves, so the question KAS have to ask is: with a six foot wall screening the pitch, what are the trees screening ? Certainly no screening from lights and noise. The aerial photograph also clearly demonstrates how small those trees are compared to the trees in their gardens on the north and south of the three neighbouring houses.

The decision fails to take account of Policy 14 which supports the development.

#### Policy 14 Open Space Retention and Provision

##### Policy 14A: Existing Areas

Areas of open space, parks, outdoor sport facilities, including sport pitches, and allotments/community growing areas, are areas of land which have value to the community for either recreational or amenity purposes; these areas are located both within and outside settlement boundaries. Development proposals resulting in the loss of these areas will not be permitted, except in circumstances where one or more of the following apply:

- (a) *Where the site is principally used as a recreation resource, the proposed development is ancillary to the principal use of the site as a recreational resource.*
- (b) *The proposed development involves a minor part of the site which would not affect its continued use as a recreational or amenity resource.*

In respect of numbers Kinross Hockey is a small affair compared to other clubs in Scotland. So how do they fare. All sports persons have heard of Eilidh Doyle and Laura Muir, both from Kinross. What has Kinross hockey achieved ? Well for such a small operation Kinross Hockey punch well above their weight: two girls are playing for Scotland U14 to U18; two boys play for Scotland U14 – 18, one of whom who is actually the captain. At veterans level: we have two men representing Scotland at Over 50 and Over 60; two ladies at Over 40 and Over 55. The oldest member was due to go to Japan this year with Scotland to play in the Veterans World cup on the Olympic pitches.

People's expectations are heightening based on what they see at other facilities. It is only with the type of development proposed can Kinross hockey hope to retain their ability to encourage youngsters and adults alike to play sport. By improving the facility, without recourse to public funds we can build on what is currently offered and secure it for future generations.

Kinross Astro Scio  
15 May 2020



## Application 20/00288/FLL

### Enhancement of existing community hockey facility at King George V playing fields

The pitch is located at: Muirs, Kinross KY13 8BS

The existing artificial hockey pitch is located on the North Western corner of the KGV playing field.



The club wishes to enhance the facility by developing the western aspect of ground between the existing pitch fence and the wall. An area approx. 7 metre wide and 64 metres long.

The photograph below shows the current condition of that area, looking South.

These three trees would be removed and an equivalent number replanted elsewhere in KGV.





Looking North (below) , these trees would be retained.



The development envisages:

- **Protecting the significant investment made by the community towards the facility**
- **Increasing the lifespan of the playing surface**
- **Improving the spectator and player experience**
- ensuring the surface remains permeable so our changes would not affect surface water in the area

- the existing fence along the wall would remain
- wall owners would continue to have unrestricted access to the wall on the “pitch side”

As background and additional information, our justification for the enlarged pitch compound is as follows:

1. Health and Safety

- a) For children using the facility - no more walking on dog faeces or onto the hockey pitch after walking around the side of the pitch
- b) For spectators – off the pitch behind a proper spectator fence. Presently parents with very young children or in pushchairs stand alongside the pitch, with a risk of getting struck by a player or ball.
- c) For players – no bags left lying or spectators standing right at the edge of the pitch

2. Enhanced sports provision

- a) Warm up area off the pitch speeds up the transition between games and allows us to maximise the playing time (Kinross Hockey Club has 5 teams and Dollar Academy utilise the facility for midweek training and Saturday morning matches, Kinross High School, Grove (Dundee) Hockey club and Dunfermline also use the pitch.
- b) Most pitches offer dugouts to keep kit, subs and sin-binned players dry – we have no space to do this without extending the compound because we only just meet the requisite safety run-off standards and dugouts extending into the run off area are not allowed.
- c) Spectator area (with a lower pitch side fence) encourages friends, family and members of the public to watch games and support their local teams. This is particularly of interest for Under 14-18 tournaments where large numbers of parents remain on-site, but have no-where to go. It may also increase uptake of hockey/rugby at all age levels if people have a positive experience of the KGV setup.
- d) Storage space for additional training and sports equipment that can be brought out onto the pitch ( eg for youth tournaments) and then kept off the pitch at other times

3. Protected pitch surface

- a) Reduced mess finding its way onto the pitch surface
- b) Absence of bags/equipment and standing spectators on the pitch itself to protect the new surface from the risk of fibres folding over, and becoming damaged by inappropriate footwear.
- c) Reduced maintenance requirements for PKC – no mowing of the narrow strip of grass

Consultations have taken place with interested parties.

The following commentary addresses the issues raised.

Loss of public access – Section 6.1(e) of the Land Reform Act states “the land in respect of which access rights are not exercisable is land...which has been developed or set out...(i) as a sports or playing field; or (ii) for a particular recreational purpose. Fields In Trust have stated *“We are of the view that there will sufficient area left for public access once the hockey pitch is fenced off”*..

There is no change of access onto the KGV Playing Field from the road.

Why not develop the eastern or south side of the pitch ? – there is insufficient run off from the rugby pitches that are immediately adjacent. As the first photograph shows the pitches abut the land boundary and cannot moved any further away.

The key objective is to increase the life of the facility for the benefit of all who use it. The existing issue of mud being walked onto the pitch will shorten its life resulting in the surface being replaced sooner and costing the Council and Community more money. The longer it lasts, the more income can be raised towards its replacement, reducing the Council’s liability.

It would drastically reduce instances such as this every year.



The development has the support of parents (who complain about having to watch through the fence) and other local sports clubs via the Kinross Community Sports Hub.

Fields In Trust have stated *“we view the spectator area as ancillary to the intended use of the site and as such it does not require formal approval”*.

Finally other points we would like to bring to your attention are:

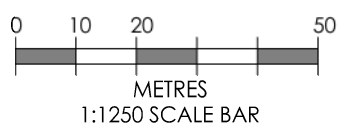
- we don’t need money off the council
- the existing fence along the wall will stay
- there has been an increase in hockey update since the pitch was renewed, such that a third (young girls) team has been created
- we will raise the height of the fence on north and south ends to reduce incidences of the ball going out of play





LOCATION PLAN  
1:1250

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Application - 100237503-001

**PROJECT**

PROPOSED HARDSTANDING, STORE, DUGOUTS & ALTERATIONS TO FENCING AT KGV PLAYING FIELDS

**CLIENT**

KINROSS ASTRO SCIO

**DRAWING TITLE**

LOCATION PLAN

**DATE**

22 JAN 2020

**SCALE**

1:2500 @ A4

**DRAWING NO.**

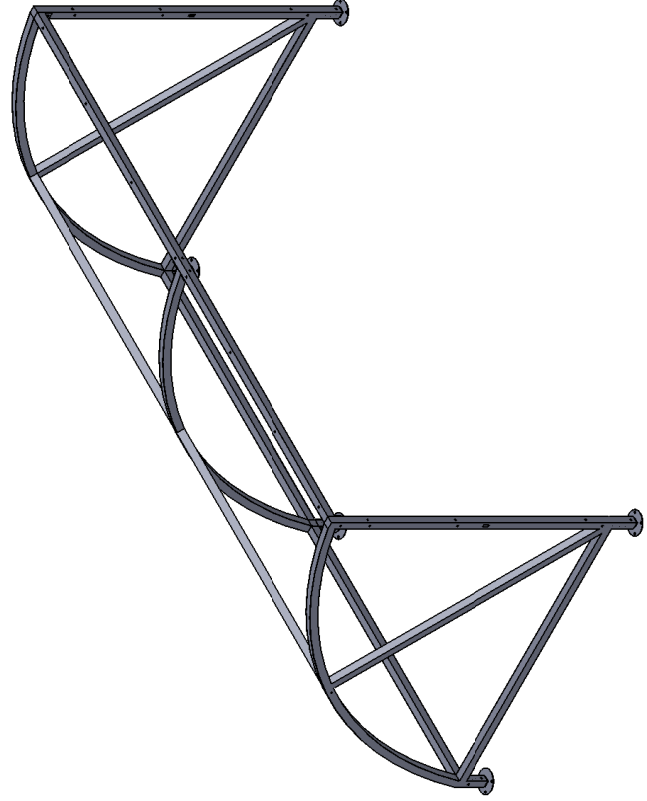
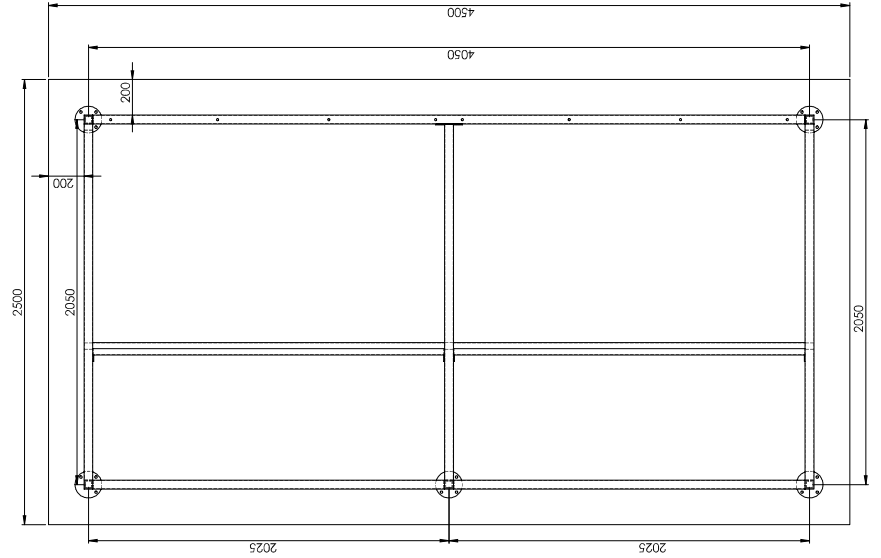
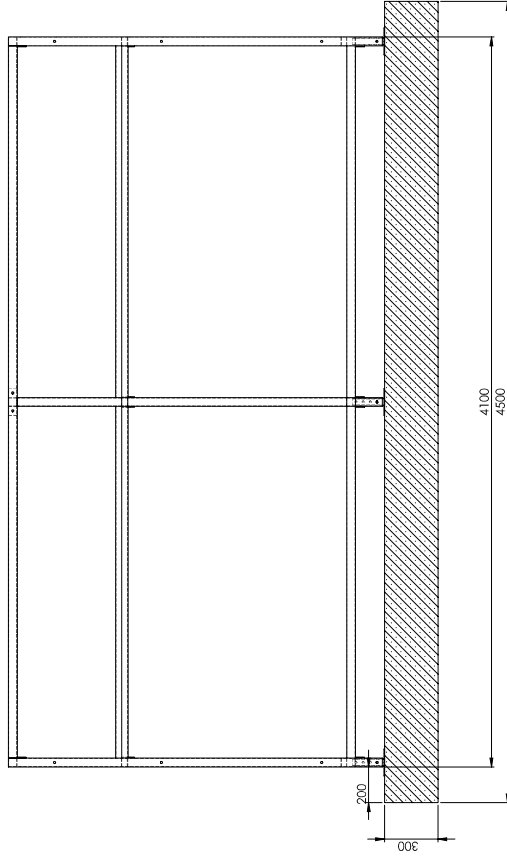
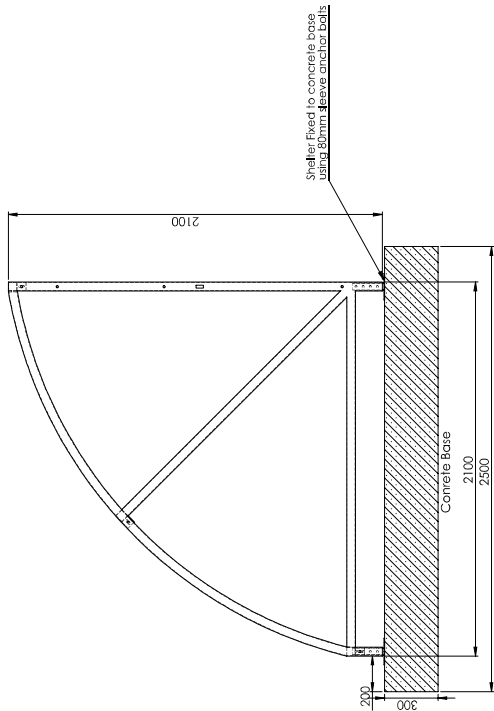
20/437/ OS/ 001





PHOTOGRAPH OF EXISTING CHAINLINK FENCE TO BE LOWERED

<b>PROJECT</b>		PROPOSED HARDSTANDING, STORE, DUGOUTS & ALTERATIONS TO FENCING AT KGV PLAYING FIELDS	
<b>CLIENT</b>		KINROSS ASTRO SCIO	
<b>DRAWING TITLE</b>		EXISTING & PROPOSED BLOCK PLANS	
<b>DATE</b>	23 JAN 2020	<b>SCALE</b>	1:500 @ A3
<b>DRAWING NO.</b>		20/437/ PL/ 101	



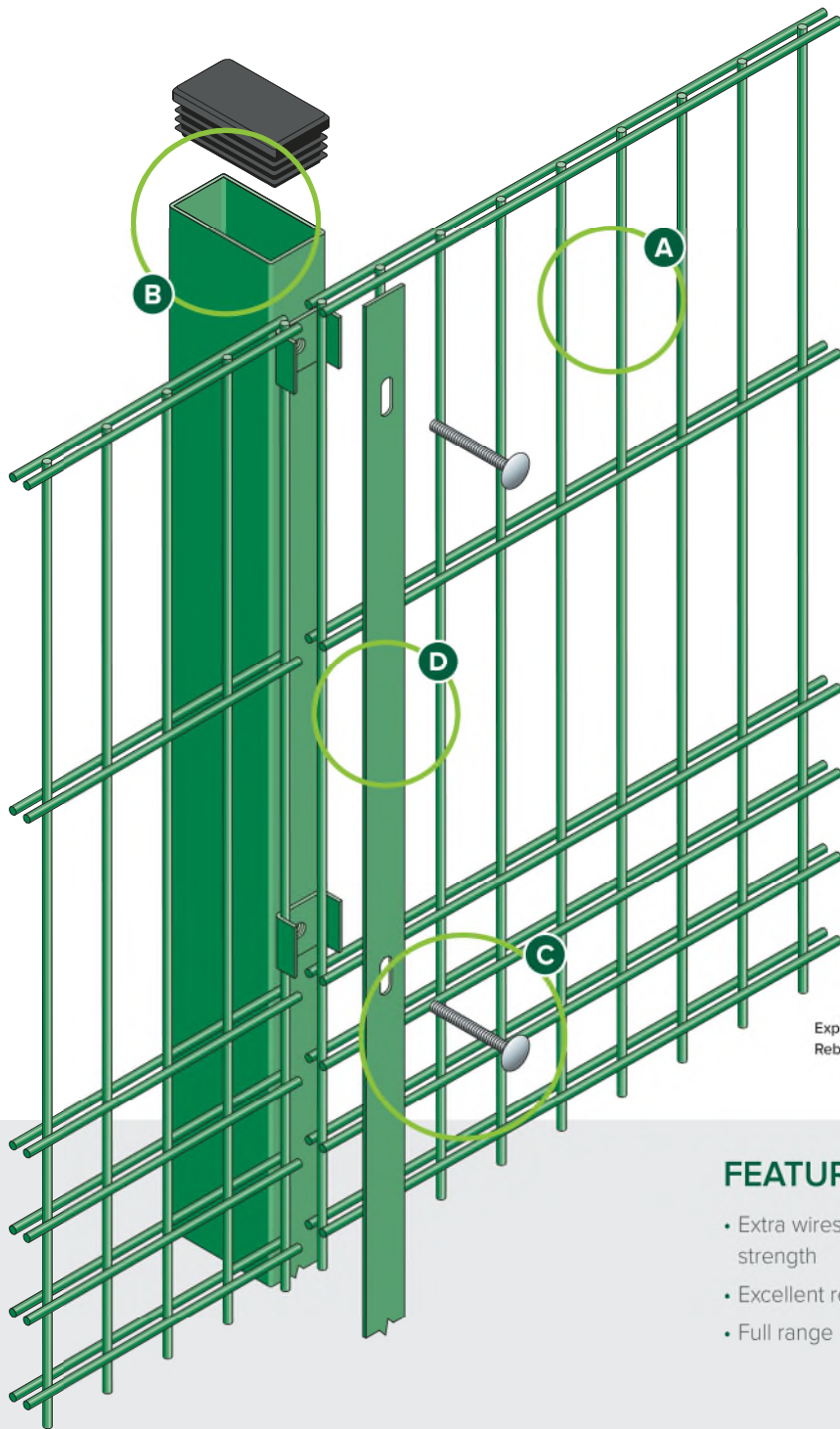
Materials: frame painted steel windows clear polycarbonate

1m

PROJECT INFORMATION		DRAWING INFORMATION	
PROJECT NAME	Blue Dock Shelter	DRAWING NUMBER	10-001
PROJECT ADDRESS	Blue Dock Shelter	DATE	10/01/2023
PROJECT CONTACT	Blue Dock Shelter	DESIGNED BY	Blue Dock Shelter
PROJECT PHONE	Blue Dock Shelter	CHECKED BY	Blue Dock Shelter
PROJECT EMAIL	Blue Dock Shelter	APPROVED BY	Blue Dock Shelter
PROJECT WEBSITE	Blue Dock Shelter	SCALE	1:1
PROJECT NOTES	Blue Dock Shelter	REVISIONS	
Blue Dock Shelter		Application - 100237503-001	
www.bluedockshelter.com		10/01/2023	
0800 612 613		10/01/2023	
Standard BBS Shelter 10 Space		10/01/2023	
A1		10/01/2023	

# DULOK REBOUND™

## DOUBLE WIRE PANEL SYSTEM



A

Twin horizontal wires for anti-cut through properties and high rigidity system

B

Galvanised and polyester powder coated RHS post

C

Secure pin hex bolt for quick installation

D

Full length clamp bar providing flush finish to play side of pitches

Conforms to **BS1722: Part 14**



Sheardrive™ option

nssPlus

Exploded view of post and clamp for Dulok Rebound double wire panel system

### FEATURES

- Extra wires provide greater strength
- Excellent rebound properties
- Full range of RAL colours available

### SUITABLE FOR

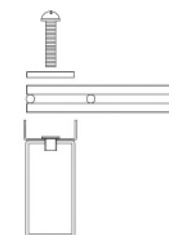
- Multi-use games areas
- School playgrounds
- Professional sports

### SYSTEM DETAILS

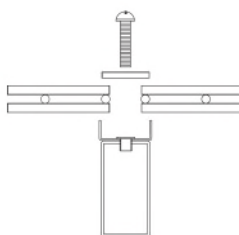


Sheardrive™ high security option before shearing

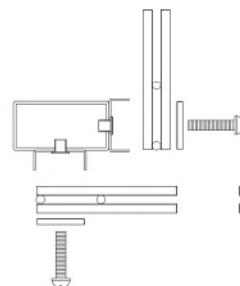
Sheardrive™ high security option after shearing



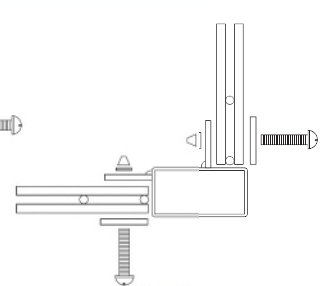
Plan of end post



Plan of panels in line



Plan of internal corner



Plan of external corner for recessed goals





## DESCRIPTION

As the fencing system that is designed to stand up everything that's thrown or kicked onto it, Dulok Rebound™ features highly dense double steel wire mesh panels that will absorb the shock of even smaller balls and return them to play without interruption.

This means you can say goodbye to traditional plywood, timber or mesh rebound boards around your school, sports grounds or MUGA (multi-purpose game area), and instead opt for a fencing system that's hard to cut through, practical and designed for sports.

You can choose Dulok Rebound™ panels – with horizontal wires 66.5mm apart and 50mm vertical – around your entire perimeter. You can also combine with our Dulok Sports™ panels - with 200mm spaces between horizontal wires - to create a fence with a smaller aperture towards the bottom, and with more visibility higher up. Either way, you'll be investing in a high quality sporting perimeter that's built to last.

### FINISH

All components of the handrail are galvanised steel or aluminium before polyester powder coating with fixings being bzp finish. The standard colours are Green RAL 6005 and Black RAL 9005. RAL range of colours available.

## PANEL DIMENSIONS

<b>Standard heights</b>	1230, 2030mm (as full Rebound) 3030mm (as combination panel) Available combined with standard Dulok panels to give heights up to 6060mm
<b>Panel widths</b>	2506mm
<b>Mesh size</b>	50 x 66.5mm
<b>Wire diameter</b>	6mm (verticals) at 50mm centres 2 x 8mm (horizontal) at 66.5mm centres
<b>Top edge projection</b>	Nil – wire is flush on all edges

All dimensions are nominal

## DULOK REBOUND POSTS AND CLAMPS

For the Dulok Rebound panel system CLD, has developed a post and clamp bar system which provides a simple method of securing. Complete with an anti-vandal fastener and installed with either a battery-powered driver or traditional tools, this system offers a rapid and secure installation.

### SLOPING GROUND

Panels can be stepped in increments of 30mm as required within the clamp bar system. Where gradients exceed 1:16, it is recommended that taller panels are either part-buried or additional posts are used.

### VARIATIONS

The posts are available in a range of lengths to accommodate panel heights and ground conditions. In addition, many variations are available:

- Wall fixing plates, cranked posts or base plated
- Cranked panels




### DIMENSIONS

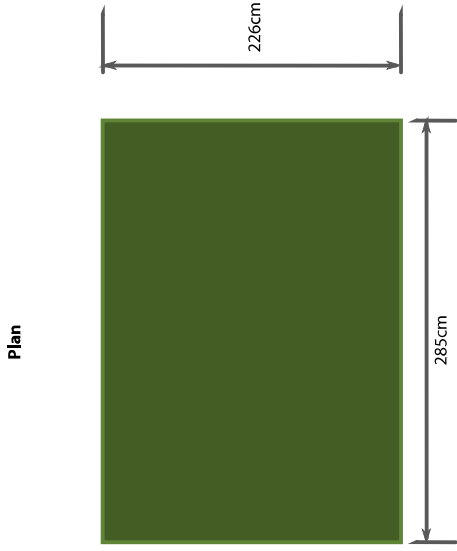
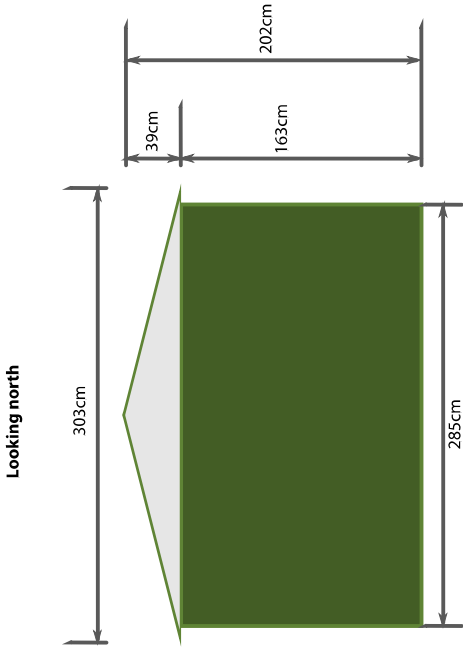
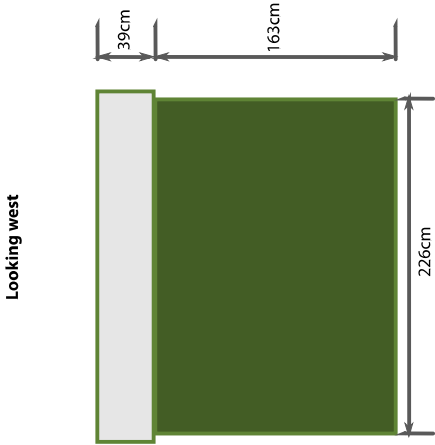
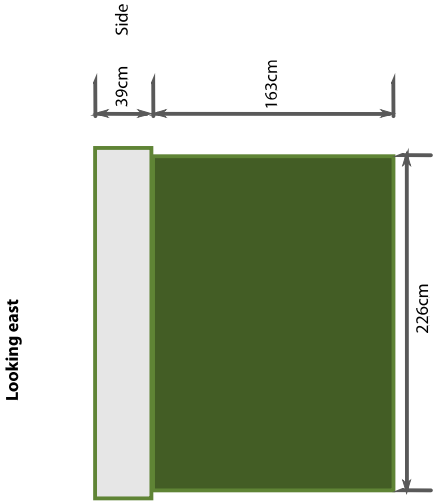
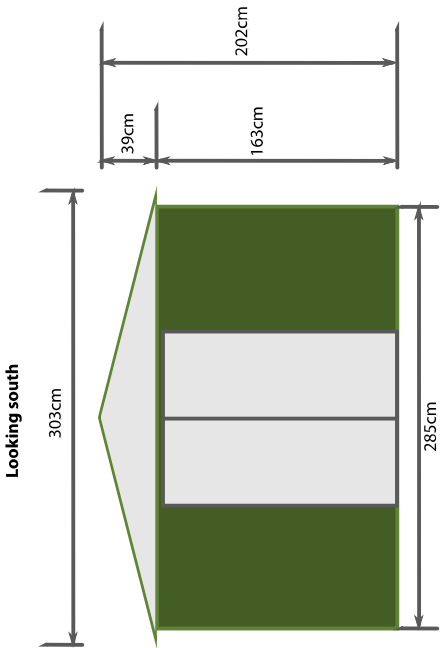
<b>Posts</b>	60 x 40mm RHS to 120 x 60mm RHS dependant on height
<b>Corner posts</b>	60 x 40mm RHS to 120 x 60mm RHS dependant on height
<b>Post centres</b>	2520mm
<b>Clamping channel</b>	40 x 5mm Steel

Application - 100237503-001

Scale: 1:50



10' x 8' Yardmaster Green Metal Shed 108GEYZ



Material: galvanised steel, paint.

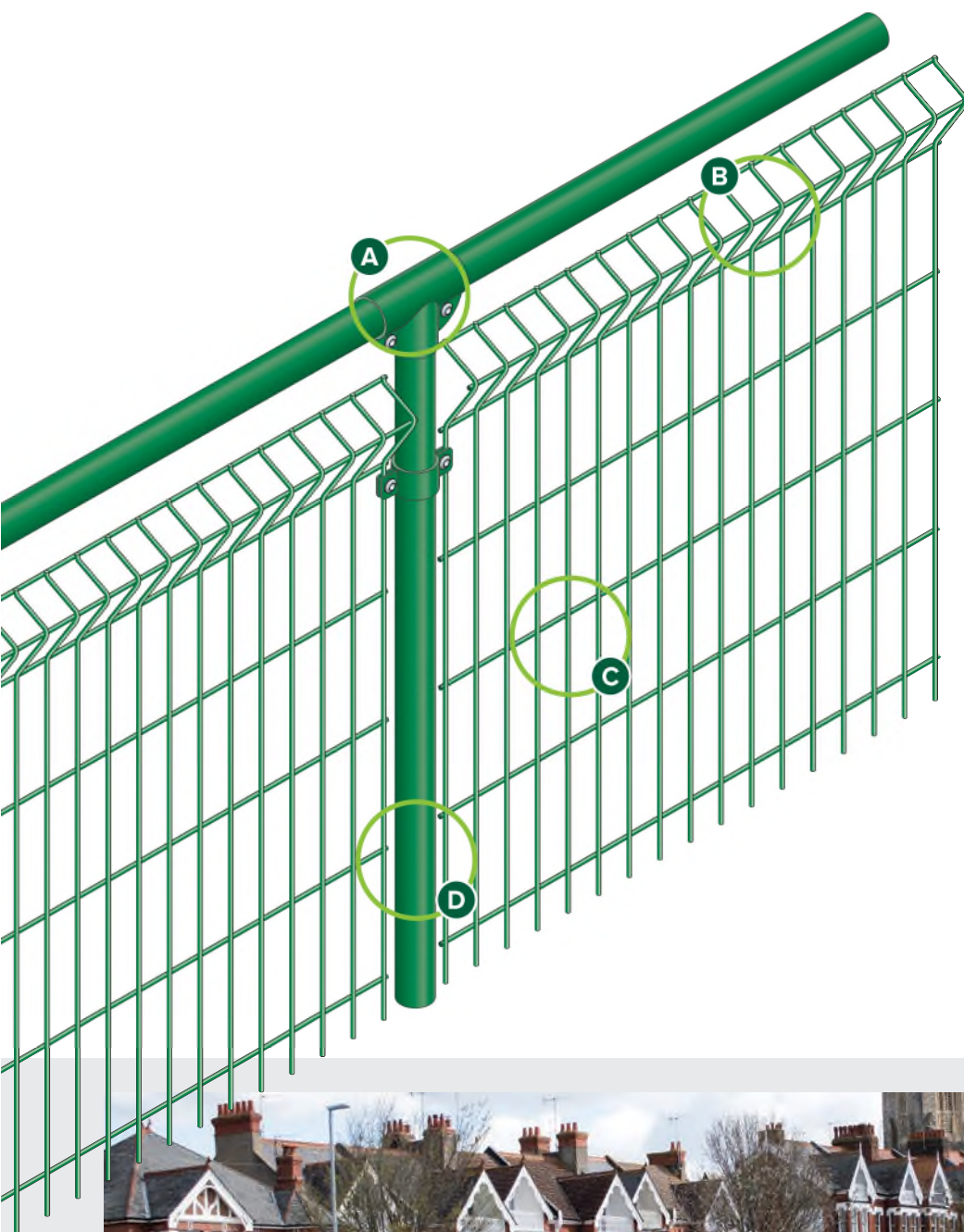


Proposed development works  
at KGV playing fields Kinross  
Applicant: Kinross Astro SCIO  
Application: 100237503-001



# SPORTS RAIL™

## HAND RAILING SYSTEM



**A** Quick and easy clamp system

**B** Choice of mesh panels

**C** Excellent for corporate advertising

**D** CHS Posts and RHS top-rails also available

n55Plus





## DESCRIPTION

When hosting any spectator sport, you should always have an appropriate barrier between the crowd and the field of play. Our incredibly popular Sports Rail™ fencing creates that safe perimeter around the action, while giving spectators a strong and comfortable rail to lean on.

Versatile and attractive enough to be installed in school playgrounds and around running tracks, Sports Rail™ is incredibly simple to install thanks to its quick and easy clamp system. And if hockey or other field sports are being played, there's even an option to add a kickboard to prevent ball damage.

Our Sports Rail™ fencing system is also available in a bespoke Velodrome Fencing solution that has been specified by British Cycling and is featured on a wealth of velodromes across the United Kingdom.

You can choose from a range of panels, from flat and profiled to our double wire Dulok™ system with RHS steel posts for added strength and security. We even offer solid panels so that you can feature corporate advertising boards and generate revenue for your school or sports club.

## FINISH

All components of the handrail are galvanised steel or aluminium before polyester powder coating with fixings being bzp finish. The standard colours are Green RAL 6005 and Black RAL 9005. RAL range of colours available.

## FEATURES

- Tubular hand rail system
- Available with or without additional mid-rails or mesh panel infill
- RAL colours available

## SUITABLE FOR

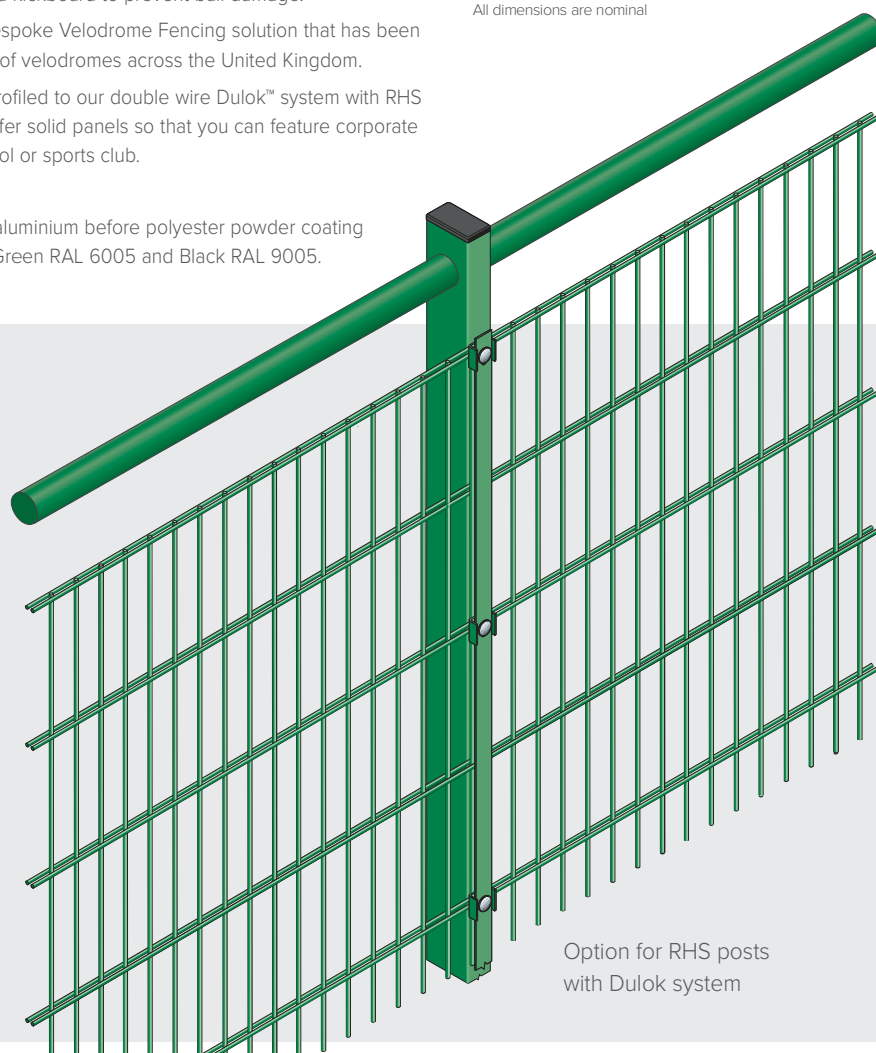
- Running track perimeters
- Spectator enclosures
- School playgrounds
- Velodromes

Application - 100237503-001

## PANEL DIMENSIONS

<b>Standard heights</b>	990, 1190, 1390mm
<b>Other heights</b>	Available on request
<b>Tube diameter</b>	48.3 or 60.3mm
<b>Infill panel</b>	Dulok, Securus or Exempla

All dimensions are nominal



Option for RHS posts with Dulok system





Fields in Trust Scotland  
The Circle  
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HRH The Duke of Cambridge KG KT

Perth & Kinross Council  
Pullar House,  
35 Kinnoull St,  
Perth  
PH1 5GD

20 January 2020

### **Kinross KGV Playing Field**

Dear Sir/Madam,

In relation to Kinross Astro's proposed hockey related development at Kinross KGV Playing Field, I have consulted with our solicitor who advises that the development is consistent with the intended use of the site and as such does not require the approval of our charity.

I trust this clarifies our position. Please do not hesitate to contact me if further explanation is required.

Yours sincerely,



Colin Rennie  
Manager

*(Added by Kinross Astro for your reference purposes: Application number is 20/00288/FLL)*



**LRB-2020-22 – 20/00288/FLL – Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross**

## **PLANNING DECISION NOTICE**

## **REPORT OF HANDLING**

## **REFERENCE DOCUMENTS** *(included in applicant's submission, pages 22-33)*





Kinross Astro SCIO  
Mr Gurdial Duhre  
The Clubhouse  
King George V Playing Fields  
Muir  
Kinross  
KY13 8BS

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date of Notice: **30th May 2020**

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT**

Application Reference: **20/00288/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 26th February 2020 for Planning Permission for **Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works King George V Playing Field Muir Kinross**

**David Littlejohn**  
**Head of Planning and Development**

### **Reasons for Refusal**

- 1 The proposal is contrary to Policy 17 Residential Areas of the Perth and Kinross Local Development Plan 2 2019 as the development would remove an existing buffer between the dwellings and the recreational sports pitch which would be detrimental to the residential amenity of the existing dwellings.
- 2 The proposal is contrary to Policy 1 Placemaking of the Perth and Kinross Local Development Plan 2 2019 as the formation of the hardstanding and loss of the trees would not respect the character and amenity of the place and would detrimentally impact the wider visual amenity.
- 3 The proposal is contrary to Policy 40A Forestry and Woodland Strategy of the Perth and Kinross Local Development Plan 2 2019 which seeks to encourage the protection of management of groups of trees of amenity value.

### **Justification**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **Notes**

The plans and documents relating to this decision are listed below and are displayed on Perth and Kinross Council's website at [www.pkc.gov.uk](http://www.pkc.gov.uk) "Online Planning Applications" page

### **Plan Reference**

**20/00288/1**

**20/00288/2**

**20/00288/3**

**20/00288/4**

**20/00288/5**

**20/00288/6**

**20/00288/7**

## REPORT OF HANDLING

### DELEGATED REPORT

Ref No	20/00288/FLL	
Ward No	P8- Kinross-shire	
Due Determination Date	25th April 2020	
Report Drafted Date	25th May 2020	
Report Issued by		Date

**PROPOSAL:** Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

**LOCATION:** King George V Playing Field Muirs Kinross

#### SUMMARY:

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

**DATE OF SITE VISIT:** 6 March 2020

#### SITE PHOTOGRAPHS



## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

The application is for alterations to boundary fence, formation of a hardstanding area, erection of a storage shed and associated works at King George V Playing Field, Muirs, Kinross.

The site is located within the settlement boundary of Kinross. The site forms part of a wider area of open space which is in recreational use. The site is linear located between existing dwellings and a multi-use sports pitch.

The proposal is for alterations to enclose the narrow strip of open space forming a hardstanding, erecting a shed and other associated works for use by users of the pitch.

## **SITE HISTORY**

98/01532/FUL Formation of an all weather pitch facility with 3m high fencing and floodlighting at 14 January 1999 Application Approved

19/00611/FLL Alterations and extension to pavilion, parking area and associated works 18 June 2019 Application Approved

19/02105/FLL Formation of hardstanding area, erection of a fence, storage shed and associated works 27 January 2020

## **PRE-APPLICATION CONSULTATION**

Pre application Reference: 19/00489/PREAPP – discussion on whether planning permission was required not on acceptability of development.

## **NATIONAL POLICY AND GUIDANCE**

The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

## **DEVELOPMENT PLAN**

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 - Approved October 2017**

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the TAYplan should be noted. The vision states *“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 2 (2019) – Adopted November 2019**

The Local Development Plan 2 is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

Policy 1A: Placemaking

Policy 1B: Placemaking

Policy 14A: Open Space Retention and Provision: Existing Areas

Policy 15: Public Access

Policy 17: Residential Areas

Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy

### **OTHER POLICIES**

No other policies

### **CONSULTATION RESPONSES**

Community Greenspace	Concerns over development of area/loss of trees
Environmental Health (Contaminated Land)	No objection
Sport Scotland	No comments

### **REPRESENTATIONS**

The following points were raised in the 17 representations received, 13 objections, 3 support and 1 neutral:

#### **Objections**

- Contrary to LDP 2
- Loss of trees
- Impact on visual amenity
- Out of character with area
- Inappropriate land use
- Impact on residential amenity
- Loss of access to open space (through space and from properties with existing gates)
- Safety (from removal of high fence)
- Design of shed not appropriate

- Noise
- Light pollution
- Impact on wildlife
- Legal position/rights

#### Support

- Provides dedicated warm up area
- Limits pitch damage
- Community benefits

The above points are covered in the appraisal section with the exception of the legal rights in the original deed of the land. The granting of permission would not supersede any legal position regarding access to this area from home owners who share the boundary and the public.

### ADDITIONAL STATEMENTS

Screening Opinion	Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not applicable
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

### APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2016 and the adopted Perth and Kinross Local Development Plan 2 (2019).

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

#### Policy Appraisal

The site is located within the settlement boundary of Kinross within an area of zoned open space under Policy 14 Open Space Retention and Provision. This policy seeks to protect areas of open space and development will be supported where it is ancillary to the principal use of the site as a recreational resource. The proposal does not involve a change of use (as the land is in recreational use) the proposal is only for the structures etc so in principle the development complies with Policy 14.



The application is required for the engineering works and enclosures etc required to supplement the existing use this is considered against Policy PM1 Placemaking and Policy 17 Residential Areas. These policies seek to ensure that the residential amenity of existing dwellings is protected from development and the wider visual amenity of the area is maintained. The pitch is located in close proximity to the existing dwellings and it can be assumed that this area was to be retained as a buffer between the two. It is considered that the loss of this landscaped strip including the trees would be detrimental to the amenity of the occupants of the dwellings and the wider character and amenity of the place. The proposal therefore contrary to Policy 1 and Policy 17.

### **Design and Layout**

The proposal is to enclose an area of open space which is full length of the pitch by erecting new gates and a fence. Within this an area of approx. 470sq metres is to be made level and finished in a permeable hard surface. A raised bed is proposed along the boundary with the dwellings and two new dug out canopies are proposed to the pitch side. Out with the fenced off area to the south a small metal storage shed 3m x 2.4m is proposed.

The closing of the strip will allow the existing fence (which encloses the west side of the pitch) is to be lowered from 3.6m to 1m providing greater visibility for spectators. Two additional sections of the existing perimeter fence of the pitch on the north and south boundary are to be increased to 4.5m in height.

The works proposed are acceptable in terms of the siting of the small shed, materials, finishes etc however for reasons detailed elsewhere the overall proposal is not considered acceptable.

### **Residential Amenity**

The position of the pitch is already close to the dwellings and the area has been laid out to provide a buffer between the pitch and the houses. The area is planted with six trees, three of which are to be removed to accommodate the hardstanding.

The lime and rowan trees that exist at this site, provide branch tracery in the dormant months which breaks up the skyline, leaf and berry colour during the growing season, and autumn colour from late August to leaf fall. In terms of any noise being generated by the users of the open space, the trees offer mitigation, insofar as they generate leaf and branch noise, masking other noise sources. The trees at this site and the buffer of open space provide amenity benefit to the householders through affording them privacy, and visual amenity.

Noise has been raised as an issue however the proposal is for associated use with the sports pitch so it would not be considered to generate any significant increase in noise as this area can currently be occupied when sports are

taking place. There are also existing flood lights and no further lighting is proposed.

It is considered that the proposal in removing this landscaped buffer would be detrimental to the residential amenity of the existing dwellings.

### **Visual Amenity**

The trees vary in height, but range between 7.0m – 10.0m. The removal of the three trees would result in the loss of the linear planting effect at this location provided by the six trees. The proposal fails to consider the future development and growth of the trees at this location which will provide increased biodiversity benefit and additional amenity value, as they mature.

The loss of a visual buffer and the screening provision afforded by the trees at the west side of this open space, is considered unacceptable.

### **Trees Loss**

The proposal would result in the loss of three trees namely two limes and one rowan, all of which are in good health, showing no signs of decline, decay, or inherent weakness. The applicant has not submitted a Tree Survey and one was not requested. There is no question of the health of the trees and we consider their location of amenity value. In particular as it became clear that we would not be supporting the proposal it did not seem reasonable to put the applicant to the expense of a survey (if we had determined a survey was necessary).

The removal of the three trees would result in the loss of the linear planting effect at this location provided by the six trees. Replacement planting of trees elsewhere in the open space would not adequately compensate, as their contribution and function is in respect to where they are positioned on the west boundary of this open space.

It is worth noting that Perth and Kinross Council have received a request for the trees to be afforded statutory protection through the mechanism of a Tree Preservation Order, which remains under consideration.

The proposal is contrary to Policy 40A of the adopted Local Development Plan 2, which seeks to encourage the protection of management of groups of trees of amenity value.

### **Biodiversity**

The biodiversity opportunities that the three trees provide has been noted as a concern particularly in relation to birds, red squirrels and bats. No Ecology Survey has been submitted with the proposal. The Biodiversity Officer considers (from images supplied) that there is likely to be little opportunities for roosting bats due to the age, size and overall good condition of the trees. Therefore she wouldn't consider a survey necessary.

She does further note the Biodiversity policy is about safeguarding both protected and non-protected species and habitats and recognise the local importance of these trees in providing bird nesting habitats and feeding areas for bats as well as connectivity for species including red squirrel.

### **Roads and Access**

No alterations proposed to the existing vehicular access.

Concerns have been raised about loss of access through the area. There is an existing path which runs around the pitch however this is not an asserted right of way or core path. The proposal would result in this route being closed however access would still be available through the wider area of open space.

### **Drainage and Flooding**

The proposal details a permeable surface, so the proposal is not considered to have any drainage or flooding implications.

### **Developer Contributions**

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

### **Economic Impact**

The economic impact of the proposal is the benefit to users of the pitch but would not be considered to have a wider economic benefit.

### **Conclusion**

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered not to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal.

### **APPLICATION PROCESSING TIME**

The recommendation for this application has not been made within the statutory determination period due to Covid-19 restrictions which have delayed discussions with the applicant and consultees.

### **LEGAL AGREEMENTS**

None required.

### **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

## **RECOMMENDATION**

### **Refuse the application**

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

- 1 The proposal is contrary to Policy 17 Residential Areas of the Perth and Kinross Local Development Plan 2 2019 as the development would remove an existing buffer between the dwellings and the recreational sports pitch which would be detrimental to the residential amenity of the existing dwellings.
- 2 The proposal is contrary to Policy 1 Placemaking of the Perth and Kinross Local Development Plan 2 2019 as the formation of the hardstanding and loss of the trees would not respect the character and amenity of the place and would detrimentally impact the wider visual amenity.
- 3 The proposal is contrary to Policy 40A Forestry and Woodland Strategy of the Perth and Kinross Local Development Plan 2 2019 which seeks to encourage the protection of management of groups of trees of amenity value.

#### **Justification**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

#### **Informatives**

No informative

#### **Procedural Notes**

Not Applicable.

#### **PLANS AND DOCUMENTS RELATING TO THIS DECISION**

20/00288/1  
20/00288/2  
20/00288/3  
20/00288/4  
20/00288/5  
20/00288/6  
20/00288/7

**LRB-2020-22 – 20/00288/FLL – Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross**

## **REPRESENTATIONS**





ENTERED IN COMPUTER

09 MAR 2020

3<sup>rd</sup> March 2020

Director of Planning  
Perth and Kinross Council  
Pullar House  
Perth

Planning Application Reference 20/00288/FLL

Dear Sir

I am writing to object to the above planning application

1 In the application, it is stated that there will be no access changes. This is untrue. A footpath, which is in regular use by many local people, currently runs alongside the fenced-off hockey pitch. The plan shows the intention to fence off the area between the pitch and the wall which runs behind the Muirs properties backing on to King George V playing field which will cut off all use of the path.

2 Within this area are trees some of which are to be removed. I object strongly to this. In these days of awareness about climate change and the benefits to the environment provided by trees, I would hope that PKC would not allow any more trees in Kinross to be felled. PKC has not shown itself in a good light with the removal of trees at Lathro and the Windlestrae in recent time. Doesn't the planning Department realise that we are all being asked to plant trees?

3 I do not understand why the hockey players need this area fenced off in order to do pre match warm ups. The problem that too much mud is taken on to the pitch if warming up on the grass can surely be solved by warming up in trainers and changing into 'hockey shoes' when about to go onto the pitch.

4 I see in the application that on the high fence on the Muirs side of the pitch is to be replaced by a lower fence to allow easier viewing by spectators. I see this as a very dangerous move. Even with the two high fences we have between our garden and the pitch we do sometimes have hockey balls coming into the garden. Taking away one of the fences would increase the likelihood of balls coming over and also the chances of balls hitting spectators at this low fence must be very high.

5 The planned storage shed would not accord in style or fabric with any other building in the area and should not be allowed.

6 I am concerned that the laying of more 'all weather surface' which is known to create environmental problems with the small pieces of debris that come off the surface and are carried into other parts of the environment which do not break down and cause great harm to ecosystems. We need to aim to keep things natural, as much as possible. Surely everyone today is aware of the huge problems faced by the planet due to many man-made fibres and materials which do not biodegrade.

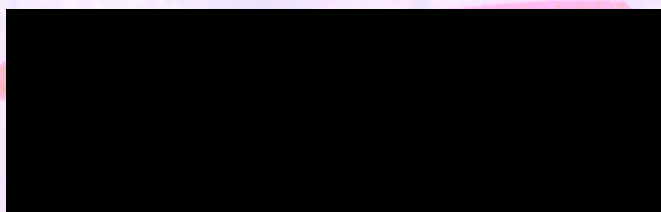
We are fortunate in Kinross to live by a Nature Reserve, renowned internationally. From Loch Leven and its nature reserve, through the golf course and then through King George V Playing Field



all is natural, although managed, trees and grass right up to our wall except for the all weather hockey pitch immediately to our rear. When this pitch was improved a few years ago, we suddenly found ourselves, not only with the prison yard appearance of the artificial pitch but with the eyesore of a bright blue border to the pitch which just goes against all the good of the natural habitats from which Kinross benefits.

To sum up, I would hope that PKC will see the harm to be done by, and the lack of need for, this application , and refuse planning permission.

Yours faithfully

A large black rectangular box redacting the signature of Catriona McLeod.

Catriona McLeod



**From:** Claire Peters  
**Sent:** Wed, 4 Mar 2020 11:13:47 +0000  
**To:** Development Management - Generic Email Account  
**Subject:** 20/00288/FLL - King George V Playing Field, Muirs, Kinross

Dear Sir / Madam

I refer to the planning application as above. I note that the proposal will not have any negative impact on any outdoor sports facilities.

Accordingly I can confirm that I have no comments to make.

Regards  
Claire

---

**Claire Peters** | Planner | **sportscotland**  
Doges | Templeton on the Green | 62 Templeton Street | Glasgow | G40 1DA

t: 0141 534 6523 | m: 07854 683060

w: [www.sportscotland.org.uk](http://www.sportscotland.org.uk)

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**Aithris-àichidh** – Tha am post-d seo dìomhair agus air a rùnachadh a-mhàin don neach gu bheil e air a sheòladh. Mura h-e thusa an neach sin, feuch gun cuir thu às don phost-d seo is ceangalan sam bith agus leth-bhreacan uile, agus cuir fios sa bhad gu an neach-seòlaidh. Cuimhnich mas e do thoil e gu bheil cleachdadh neo-ùghdarraichte sam bith air an sgriobhainn seo air a thoirmeasg gu tur.

Mar bhuidheann poblach, tha **spòrsalba** a' tighinn fo riatanasan an Achd Saorsa Fiosrachaidh (Alba) 2002 a thaobh foillseachadh air fiosrachadh sam bith (a' gabhail a-steach conaltradh eileagtronaigeach) a dh'fhaodadh a bhith aige mu chuspair sònraichte, nuair a thèid sin iarraidh air le neach no buidheann sam bith. Ma bhios dragh ann mu dheidhinn seo, is urrainn do **spòrsalba** comhairleachadh mun chùis. Gus teagamh a sheachnadh, bidh co-dhùnadh **spòrsalba** deireannach a thaobh ceistean foillseachaidh is neo-fhoillseachaidh.

Is e **spòrsalba** a tha a' gleidheadh dàta pearsanta a bheir sibh dhuinn ann am puist-dealain sam bith.

Thoiribh an aire gum bi an dàta pearsanta a bheir sibh dhuinn air a stòradh agus/no air a ghiullachd le **spòrsalba** gus seirbheisean a libhrigeadh no conaltradh ribh. Feuch gun tèid sibh gu <https://sportscotland.org.uk/privacy/> airson tuilleadh fiosrachaidh mu làimhseachadh air an dàta pearsanta agaibh.

# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Mr James Marshall

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Inappropriate Land Use
- Loss Of Trees
- Out of Character with the Area

Comment: I wish to strongly object to this development on three grounds: Aesthetic, Accessibility and Safety.

### Aesthetic

Back in August 1998 when the original application was granted for the All Weather Pitch, the trees were included in the application to reduce the visual impact of the development. These trees have now grown and give some softening to what is an eyesore on our doorstep. Just remember before we just had grass. To cut down three mature trees, specifically placed (and approved) to help progress the original planning application and then to request their removal because they are now "in the way", is an act of vandalism and makes a mockery of the planning process.

### Accessibility

We currently enjoy direct access to the playing fields via a gate in our boundary wall, and have done so for over thirty years. There is no reference in the application to this access, indeed the "Proposed Block Plan" does not show the gate and proposes a half meter raised planter bed to go the length of our garden wall. The gate can be seen in the photo (looking South) that shows the three trees that are proposed for felling. I assume there is no reference to this access because it does not "fit" with the plans and in the hope that the Planning Authority would be unaware of its existence.

## Safety

In the application the applicants have requested that the fence be raised an additional 1.5 metres at either end of the pitch, presumably because hockey balls have been flying over the existing 3 metre fence. How on earth can they then justify reducing the fence running parallel with our boundary to 1 metre? There are goals positioned at our back door as well, and I have lost count of the number of hockey balls I've thrown back over from my garden (I currently have two still in my possession). If the balls are coming over a 3 metre fence, how many more will come over when it is reduced to 1 metre? Crazy. My grandchildren often play in the garden and there is a greenhouse and cars that have miraculously survived to date. Does the Council want to risk increasing the likelihood of a hard hockey ball causing serious injury or property damage?

I respectfully ask the Council to refuse this development as proposed.

James Marshall



2nd from same household (McLeod)

Perth & Kinross Council  
Planning & Development  
Pullar House  
35, Kinnoull Street  
Perth PH1 5GD

10.03.2020

Dear Sir or Madam,

Your ref 20/00288/FLL

After much correspondence between myself and Kinross Hockey Club (KHC), Kinross Community Council and Kinross Newsletter, KHC have agreed that the new hardstanding which they wish to install between their pitch and the rear of the Muirs properties will not extend to the north end of their pitch, and the trees behind numbers 61 and 59 will not be felled. The plans accompanying their application show this clearly. However, in view of the well documented history of non-compliance by recent developers in Kinross, I am concerned that Perth & Kinross Council lacks the will and/or resources to ensure that the KHC project is carried out in compliance with the planning consent.

The unauthorised felling of trees, the accidental demolishing of buildings intended to be preserved, the occupation of dwellings without completion certification, and even the creation of whole unauthorised streets have been features of recent developments in Kinross, together with the apparent inability of the Council to enforce construction standards, leading to widespread dissatisfaction among new house purchasers.

The tree at the bottom of our garden is a wildlife haven. It is a refuge and nesting site for countless birds, including our very successful breeding colony of tree sparrows (a listed species), it is a hunting ground for bats on summer evenings, and is frequently visited by red squirrels. In winter it is a roost for a small murmuration of starlings. The volume of birdsong on a summer evening is a delight. I am delighted that it is to be preserved.

I am pleased that KHC is flourishing, and I wish them success in the future, but in view of all of the above, I would request the Council to emphasise to KHC that there must be no accidental felling of or damage to the trees behind 59/61 Muirs, and to further ensure that should these trees mysteriously decline and die after the project is completed, KHC will be obliged to replace them with trees of a similar type and size.

Yours faithfully,

Graham M McLeod

Cc KHC

ENTERED IN COMPUTER

16 MAR 2020





SCANNED

Tracy McManamon

**From:** [REDACTED]  
**Sent:** 11 March 2020 13:15  
**To:** Development Management - Generic Email Account  
**Subject:** Planning Application Reference 20/00288/FLL Objection

Planning Application Reference 20/00288/FLL

I wish to strongly object to this development proposal on following grounds: Aesthetic, Accessibility and Safety and Noise .

#### Aesthetic

When the original application was granted for the All Weather Pitch, the trees were included in the application to reduce the visual impact of the development. These trees have now matured and grown over the last 20 years and give cover to what is an eyesore to overlooking houses . To cut down three mature trees specifically placed for the benefit of residents is surely wrong and to be avoided.

#### Accessibility

There is a pedestrian / wheelchair tarmac walkway which runs the length of the all weather pitch and effectively joins the two entrances to the King George playing field which will be fenced off and be lost to the public if these alterations proceed. This walkway is well used by the public including school children choosing a safer and more pleasant school route than the busy Muirs road. I also have noted on occasion carer wheelchairs from the Rachel house hospice using this pathway. ( I also believe that several houses on the Muirs have access into the playing field from their back gardens which would be again be wrong to impose entry restriction .

#### Safety

The applicants have requested that the outer 3mtr fence be raised at either end of the pitch and 1mtr spectator fence installation. I can confirm hockey balls have been flying over the existing 3 metre fence into my property I have experienced a broken living room window by hockey ball, have many times returned balls and suffered from near "misses" to my family. Installation of a 1mtr high spectator fence running the length of the pitch will increase public risk of personal and property damage. I am sure that no one wants to see damage to people and property by a hard hockey ball.

#### Noise

Noise caused during use of the hockey pitch was measured & monitored by PKC environmental placing sound recording instruments in [REDACTED] and results found noise to be unacceptable due to closeness to properties and is an ongoing problem. (The properties bordering the playing field were built long before the all weather pitch was thought of ) Environmental during visit suggested that solution was an accoustic fence erected at pitch end nearest Broom Road. The applicants proposal may exacerbate noise which is obviously a sensitive issue and to be avoided.

I respectfully ask the Council to refuse this development as proposed.

Mr M Gardiner

[REDACTED]

ENTERED IN COMPUTER

12 MAR 2020





# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Mrs Joan Koronka

Address: [REDACTED]

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inappropriate Land Use
- Loss Of Trees

Comment: Trees make an important contribution to the visual amenity of the area. They also help to soften the harsh appearance of the hockey compound. The grass and trees provide a buffer between the pitch and the neighbouring residents. The trees absorb a lot of water to help prevent flooding as does the grass allowing rainwater to drain away slowly. Trees absorb CO2 and help to fight climate change so we should be planting more trees not removing them. This path is actually used by the residents as it links with the core path leading to the woodland route alongside the golf course. The trees also provide a habitat for birds.



**Tracy McManamon**

---

**From:** [REDACTED]  
**Sent:** 15 March 2020 08:54  
**To:** Development Management - Generic Email Account  
**Subject:** 20/00288/FLL - OBJECTION

ENTERED IN COMPUTER

16 MAR 2020

Sir /Madam- good morning .

I write to add my objection to the many already lodged in respect of the above Ref:

"Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works, King George V Playing Field, Muirs, Kinross."

My context and interest is that [REDACTED] from the proposed works/ alterations.

My main objection, on top of the tree felling that would be involved - deeply saddening , not "green", and unnecessary in itself - is that the field is meant to be a playing field and recreation ground for the inhabitants of Kinross, and the public generally. To stop the public's access from the whole western side of the field is not consistent with this. I walk that route probably daily x 2, as do many, many others . It is a well-used route by the public, particularly dog walkers, and links with the core path leading to the woodland path along the golf course.

The Astro turf hockey pitch is enormous, and surely must be perfectly big enough for on pitch warm ups before a match , or -simple solution -change boots (30 seconds job?) to warm up on the acres of adjacent grass, so as not to bring mud onto the artificial surface.

This is not a project worth its expense or justification.

Thank you,

Andy Middlemiss

[REDACTED]





**Tracy McManamon**

---

**From:** [REDACTED]  
**Sent:** 15 March 2020 18:51  
**To:** Development Management - Generic Email Account  
**Subject:** Planning Application 20/00288/FLL

Perth and Kinross Council  
Planning and Development Management

15th March 2020

**Planning Application 20/00288/FLL**

**Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works, King George V Playing Field, Muirs, Kinross**

I write to object to the above planning application.

The proposal would result in the removal of mature trees which currently provide screening between neighbouring properties and activities on the site, which include the use of very intrusive floodlighting.

This would cause a loss of amenity to these properties and would also be an unacceptable cost to the wider community.

The removal of these trees would also mean in the destruction of valuable wildlife habitat.

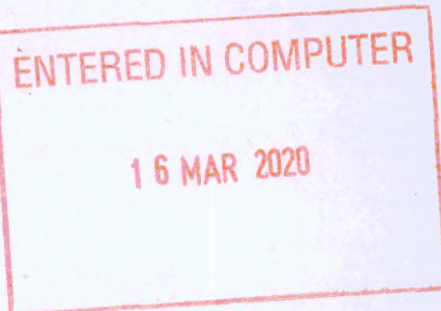
The proposal would result in a loss of established access to pathways currently in regular use by local residents.

This would have an adverse impact on the integrity of a well used path and therefore be contrary to Policy 15 of the Perth and Kinross Council Development Plan 2.

The proposal creates development which is out of keeping with the historical use of the site by *restricting free passage to the wider public and instead establishing an exclusive use for a small minority with a specific and limited use.*

This would appear to be contrary to the established principles relating to the use of this site for a wider and inclusive public benefit.

Ken Miles  
[REDACTED]





# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Miss Kirsty Dunn

Address: [REDACTED]

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:

I would like to strongly support the submission from KGV for the warm up area to the west of the existing hockey pitch.

At present there is a huge uptake of hockey players in Kinrossshire and the surrounding area, which means that the hockey pitch is in continual use. This comes with its own problems, a larger volume of supporters and teams waiting to play their matches. There is currently no safe area where supporters can stand to watch, or where teams can warm up.

The car park is of poor quality and dangerous to warm up due to the volume of cars from the rugby club. The rugby club use both exits of the club house traipsing mud everywhere which can damage the hockey pitch. It is not feasible to police every single team using the hockey pitch to ensure they change their footwear from warm up to match.

The proposed area would provide a safer space for supporters, including supporters with push chairs, dogs etc.

The area will also limit the damage to the pitch, which is new, and a key asset to the community. The loss of trees is not severe enough for an environmental objection and PKC could possibly suggest the club plant trees to the north of the pitch to negate this.

The danger factor which has been highlighted is very very minimal, hockey balls are more likely to be raised behind a goal and the plans propose making both these fences higher. The supporter area should not have dangerous balls lifted into it.

The club is constantly expanding and supports hundreds of children in the community and allowing

them better facilities will only excel the sport.

My suggestions would be that the club plant trees elsewhere to compensate for the loss of trees and that they redesign the shed to be more aesthetically pleasing to the surroundings.

Kind Regards,



# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Mr Robert Huxtable

Address: [REDACTED]

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Supports Economic Development

Comment: The pitch at KGV playing fields is an exceptional facility and it is used by clubs and schools from the surrounding area. As it stands, teams are unable to warm up before the previous game has finished leading to an extension of pitch booking time. Unfortunately this means that clubs and local community are not able to utilise the pitch to its fullest. With the addition of a warm up area more bookings would be available and more children, young people and adults would be able to engage in outdoor physical activity.

The expansion of the current facilities would also allow the pitch to host and engage in regional events bringing more economic opportunity to the area.



# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Mrs Margaret Marshall

Address: [REDACTED]

## Comment Details

Commenter Type: Comment from Same Household

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Inappropriate Land Use
- Light Pollution
- Loss Of Open Space
- Loss Of Trees
- Noise Pollution

Comment: I wish to strongly object to the proposal.

Loss of privacy and Amenity.

This proposal means that I will have hockey players right up against my garden wall, instead of 9 meters away, as they are at present.

The proposal also means that I will no longer have direct access to the field, something I have enjoyed for 30 years. Even if my gate was not blocked by the proposed raised planter, I would be potentially be opening out directly on to hockey players.

Danger.

The proposal is to lower the height of the existing fence which runs parallel to my wall, to 1 metre and raising it behind the goals. However, there are extra goals used for training purposes along the length of the pitch. One is positioned directly behind my garden, and I often get balls coming into the garden. This can only get worse if the fence is reduced.

Enjoyment of my garden.

This proposal will have an adverse effect on my enjoyment of my garden. It is already very noisy when the pitch is in use. The spectators, shouting in support of their teams, will be immediately

behind where I sit, within 2 metres.

Trees.

Apart from the very obvious aesthetic appeal of the trees, they also help shield my property from the considerable light pollution from the flood lights. One tree has already been cut down, and the difference was quite noticeable. They also help to baffle to the noise.

I sincerely hope that the council will refuse this application.

Margaret Marshall.

# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Ms Gemma Reid

Address: [REDACTED]

## Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Enhances Character of Area
- Results in Environmental Improvements
- Road Safety Concerns
- Supports Economic Development

Comment: Full support of the planning.

The hockey club along with the rugby club is a vital part of the community in Kinross. The club offers opportunity for everyone not just youths but, everyone to be involved within Kinross.

The warm up area will allow us to all safely warm up and utilise what is currently space which isn't used. Not only the club but, the community will benefit economically as this will allow the club to attract other groups to utilise the facilities.





# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Mr Nick Rowan

Address: [REDACTED]

## Comment Details

Commenter Type: Comment from Same Household

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Loss Of Trees
- Out of Character with the Area
- Over Looking

Comment: Although we are in support of the hockey club promoting sport within the local community, we do have concerns in regard to the proposed alterations to the piece of land on the western side of the King George V playing field. As the owners of a property immediately adjoining the piece of land, we would raise the following concerns, for discussion:

1. The reduction in the height of the perimeter fence to the hockey pitch would provide a safety hazard in respect of hockey balls entering our property;
2. We envisage a loss of privacy - the wall between our property and the proposed warm-up space / viewing area is low in height and an increase in footfall would impede on the privacy that we currently have;
3. The trees that are proposed to be removed have provided a wildlife habitat and privacy to our property; and
4. It is our intention to create access from the eastern boundary wall of our property to the western side of the King George V playing field - as a safer route to access the playing field than having to access the area via the main road and we would like to understand how the proposed alterations would allow this to be incorporated.

Kind Regards

Nick Rowan

## Tracy McManamon

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**From:** Lennard & Margaret-Elspeth Harman [REDACTED]  
**Sent:** 19 March 2020 16:16  
**To:** Development Management - Generic Email Account  
**Subject:** Planning application 20/00288/FLL Comment

Dear Planning Officer,

Firstly

I tried to register to login to your planning site and had me email address refused = I would like an explanation as to why that is the case.

Secondly

I wish to raise an objection to the Planning application as numbered in the subject line above.

I consider the alterations to the boundary fence around the Hockey club designated land to be an encroachment on the liberties of the residents of Kinross and surrounding area.

It is my understanding that the original deed that covered the sale of the field by the Kinross Estate Coy. to the Local Authority was for the benefit of the inhabitants of Kinross AND the public generally IN ALL TIME COMING. Blocking the public from the land identified in this planning application is totally contrary to the principle and meaning of the Deed as laid down.

I remain

Mrs Margaret-Elspeth Harman  
[REDACTED]





# KINROSS-SHIRE CIVIC TRUST

*Helping protect, conserve and develop a better built and natural environment*

President: Professor David M Munro MBE

Chairman: Alistair Smith, [REDACTED]

Secretary email: [REDACTED]

Development Management

Perth & Kinross Council

by email to: [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk)

20 March 2020

Dear Sir/Madam

**20/00288/FLL Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works, King George V Playing Field, Muirs, Kinross**

Kinross-shire Civic Trust objects to the above application. The Trust regards the proposal as contrary to the following:

- Policy 1 (Placemaking) of the second Local Development Plan as adopted in 2019 (LDP2)
- Policy 40 (Forestry, Woodland and Trees), parts A and B, of LDP2
- Policy 41 (Biodiversity) of LDP2
- Policy 15 (Public Access) of LDP2
- LDP2 Vision for a Natural, Resilient Place
- Perth & Kinross Council's Tree Management Policy

The land concerned is owned by Perth & Kinross Council (PKC) and is a landscaped area on the western edge of the King George V Playing Field. The proposal would involve Kinross Astro taking over what is currently public land for the exclusive use of hockey players and their supporters.

The land affected is around 858 square metres in total. Around 740 square metres of this is grass on which there are six trees (four Rowan and two Common Lime) in early maturity. A 1.2-metre path runs between this area of grass and the fence of the hockey compound.

The proposal would involve converting around two-thirds of the grass to hard surface, and felling three of the trees (one Rowan and two Common Lime) to provide a "warm-up" area and to locate a large storage unit.

Dug-outs would be located on what is currently the path. The whole 97.5-metre chainlink fence on the west side would be replaced by a one-metre fence.

The land would be blocked off at both ends with security fencing and lockable gates, preventing the public from walking through this area as they do at present. Some grass and three trees would remain, but these trees would be caged within the newly enlarged hockey compound.

## **Placemaking**

This area of land currently provides a buffer between the long-established (over 100 years old) residential properties on the east side of Muirs and the hockey compound. The trees provide visual amenity, softening the harsh appearance of the artificial pitch and fencing. The trees are visible from the main road running through Kinross and are therefore part of the streetscape, contributing to the rural character of the area. Trees also help to absorb noise from the activity on the field and filter light from the harsh floodlights. Our understanding is that the trees were planted in order to provide a buffer between the residential properties and the activities on the KGV field. Indeed, we understand that at least one of the trees originally planted failed and was removed (there are uneven gaps between the trees) so, if anything, an additional tree or trees should be planted. Policy 1 (Placemaking) of the LDP requires development to

“contribute positively to the quality of the surrounding built and natural environment” and that the “design, density and siting of the development should respect the character and amenity of the place.” The proposal is **contrary to Policy 1 of the LDP**.

### **A Natural, Resilient Place**

Felling mature trees and converting grass to hard surface, even if it is porous hard surface, is not consistent with the Council’s stated aims regarding climate change and flooding. The proposal is contrary to the Council’s ‘Vision for a Natural, Resilient Place’ in LDP2, which states: “New development will be sympathetic to the landscape in which it is set, and will not place unnecessary burden on the environment”. A key objective of this vision is to “Ensure that development and land uses make a positive contribution to helping minimise the causes of climate change and adapting to its impacts.”

### **Trees**

The proposal involves the felling of three trees. The remaining three trees would be at risk of damage from hockey balls as there would only be a one-metre high fence between them and the playing surface.

Policy 40A of the LDP states that the Council will support proposals which “encourage the protection and good management of amenity trees”. The proposal does not accord with **Policy 40A of the LDP**.

Policy 40B of the LDP states that “Tree surveys, undertaken by a suitably qualified professional, should accompany all applications for planning permission where there are existing trees on a site. The scope and nature of such surveys will reflect the known or potential amenity, nature conservation and/or recreational value of the trees in question and should be agreed in advance with the Council.” No tree survey has been supplied with this application and we do not understand why the Council has allowed this application to proceed to the public comment stage without the required tree report. **The application has contravened Policy 40B of the LDP.**

The applicant proposes planting replacement trees elsewhere in the KGV field in mitigation but this misses the point of the current trees specifically providing screening for the residential properties. In any case, mitigation measures are only for “exceptional cases where the loss of individual trees .... is unavoidable.” (Policy 40B.)

The Civic Trust also notes that “The Council is committed to protecting, improving and developing the tree cover on publicly owned land”. (Perth and Kinross Council’s Tree Management Policy.)

### **Biodiversity**

The northernmost of the six trees, a Rowan, (not proposed for felling), has been observed to provide an environment for tree sparrows, greenfinches, starlings, siskins, goldfinches, chaffinches, house sparrows, wrens, dunnocks, blackbirds, thrushes, blue tits, great tits, coal tits, long tailed tits, wood pigeons, collared doves, magpies and jackdaws. Red squirrels and bats, both protected species, have been observed here. One of the trees proposed to be felled is the same species, so would provide a similar habitat. It has certainly been noted to be full of birdsong in the summer. All the trees proposed to be felled are 7 to 9 metres tall and in early maturity. Rowan and Common Lime are native species. Policy 41 (Biodiversity) of the LDP says: “The Council will seek to protect and enhance all wildlife and wildlife habitats, whether formally designated/protected or not....” This proposal is **contrary to Policy 41 of the LDP**.

Bats have been observed feeding along the tree line. It is possible that the trees have bat roosts. As bats are a European Protected Species, detailed environmental monitoring surveys would be required so that the local authority can be satisfied that no harm would come to a European Protected Species under this proposal. Under EC, UK and Scottish legislation, such surveys **must** be carried out **prior to the determination** of the planning application and cannot be conditioned.

### **Public Access**

The path that runs through this area, whilst not a right of way or core path itself, is nevertheless well used by local residents, particularly dog walkers, and links with the recognised core path (KROS/107) on the south side of the field, leading to the core path in the woodland on the edge of the golf course. Policy 15

(Public Access) of the LDP states that “.. proposals that would have an adverse impact upon the integrity of any .... well-used route .... will not be permitted.” The proposal is therefore **contrary to Policy 15 of the LDP**.

### **Responsibility**

The Supporting Statement (page 4) says that mud being transferred on to the artificial surface will shorten the surface’s life and that this will cost the Council more money. The Civic Trust is puzzled by this statement; our understanding is that it is the responsibility of Kinross Astro SCIO to replace the artificial surface when required in future.

The applicant also cites as a benefit of the proposal: “reduced maintenance requirements for PKC – no mowing of the narrow strip of grass”. This raises the issue that PKC is playing several roles here: it is the owner and landlord of the site (with responsibility to maintain the grass) but is also the planning authority deciding on this application. Is there a conflict of interest?

### **Other Matters / Alternative Solutions**

Regarding storage, there are already two large metal storage units and a metal garage to the west of the pavilion. We understand one of these storage units is used by the hockey club/Kinross Astro.

There is a large area between the north and south rugby pitches that could be used for warming up. To counteract the mud problem, players could wear different shoes for warming up then change before going on to the artificial surface.

The hockey compound could be expanded on the east side. The Supporting Statement claims that this is not possible as it would not leave enough run-off space for the adjacent rugby pitch. There is 7.5 metres between the east-side hockey compound fence and the line of the rugby pitch in the north of the playing field. A planning application to expand the pavilion at KGV field (ref 19/00611/FLL, granted consent) will result in the southern rugby pitch reducing its run-off space to around 5 metres. Sportscotland said this was acceptable. (See consultation comment on Public Access for 19/00611/FLL.) If 5 metres’ run-off is acceptable for the southern rugby pitch, the same surely applies to the northern rugby pitch. The hockey compound could therefore be expanded by a width of 2.5 metres on the east side. This would give additional space of around 243 square metres (2.5m width x 97.5m length of compound fence) for warm-up, dug-outs, bags etc and creates none of the problems (loss of trees, loss of neighbours’ privacy, detrimental effect on character and amenity etc) associated with the current proposal.

The Supporting Statement says there is currently nowhere for parents to go and this application will provide a spectator area. They can of course stand around the perimeter of the pitch behind the chainlink fence, which is safer than the one-metre fence in the proposal. In addition, planning consent has been granted for an extension to the pavilion at KGV which will provide a first-floor viewing terrace for spectators (ref 19/00611/FLL).

### **Conclusion**

Kinross-shire Civic Trust considers that there are ample reasons why this proposal does not comply with the Local Development Plan and there are no material considerations that outweigh the Plan.

Yours faithfully

Kinross-shire Civic Trust

cc Kinross-shire Ward Councillors M Barnacle, C Purves, W Robertson and R Watters  
Kinross Community Council



# Comments for Planning Application 20/00288/FLL

## Application Summary

Application Number: 20/00288/FLL

Address: King George V Playing Field Muirs Kinross

Proposal: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works

Case Officer: Joanne Ferguson

## Customer Details

Name: Dr Gareth Thomas

Address: [REDACTED]

## Comment Details

Commenter Type: Comment from Same Household

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Contrary to Development Plan Policy
- Inappropriate Land Use
- Loss Of Open Space
- Loss Of Trees
- Out of Character with the Area

Comment: I object to planning proposal 20/00288/FLL on several grounds.

Firstly the proposed felling of trees. This is contrary to the advice I received from Paul Kettles, Planning Enforcement Officer (Trees) on 2 September 2019 which stated "I understand the trees will remain in Council ownership, and any proposed development will be subject to a planning application, which if granted will seek to protect the trees."

It is also against Perth and Kinross Tree Management Policy for trees on Council land which claims "The Council is committed to protecting, improving and developing the tree cover on publicly owned land" and furthermore explicitly states "council owned trees will not be pruned or felled to remove or reduce leaf fall".

It would also be against the Local Development Plan policy 40A, which supports proposals which protect trees.

Furthermore, these trees were planted specifically to augment the buffer zone between the Hockey Field and neighbouring houses. If this was a specific aspect of the original planning permission, surely this cannot now be ignored.

I also believe it is misleading for the applicant to state in the application that there is no change of use proposed. This proposal would alter a 97m x 9m area of publicly accessible land to exclusive use by hockey players. It is disingenuous not to mention the use of this land by the general public, including, but not limited to, dog walkers. It is also significantly larger than the 450 square metres claimed.



Direct: +44(0)7929 996105  
Email: [Susan@livinglaw.co.uk](mailto:Susan@livinglaw.co.uk)  
Our Ref: ET/PLN/2020/1  
You Reference: N/A

**FAO: Ms Joanne Ferguson**  
**Planning Officer, Planning and Development**  
**Perth and Kinross Council**  
**Pullar House**  
**KINNOULL STREET**  
**PH1 5GD**

20 March 2020

Dear Ms Ferguson,

**OUR CLIENT: MRS EILEEN THOMAS**  
**OBJECTION TO PLANNING APPLICATION – 20/00288/FLL**  
**LAND AT KING GEORGE V PLAYING FIELDS, MUIRS, KINROSS**

We refer to the above-mentioned matter and previous correspondence relative thereto.

Please now find enclosed on behalf of our client formal objection to this proposed development within the period allowed for comments by members of the public to be put forward.

We look forward to confirmation of safe receipt in due course and to our client's submission being taken duly into consideration in the determination process.

Yours sincerely,



Ms Susan D. Shaw LLB (Hons), LLM, DipLP, NP  
Managing Partner  
'For and on behalf of Living Law'

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Enclosed: *Planning Objection - For Mrs Eileen Thomas 20-03-20 1300*  
*Final*  
*Species Planning Advice - bats*



**OBJECTION TO PLANNING APPLICATION – 20/00288/FLL**  
**LAND AT KING GEORGE V PLAYING FIELDS, MUIRS, KINROSS**

***FOR AND ON BEHALF OF***

**MRS EILEEN THOMAS**



1. We act on behalf of Mrs Eileen Thomas, a resident of the local Kinross community in connection with the above-mentioned application before Perth and Kinross Council as Planning Authority.
2. Our client lives in a property adjoining the main road opposite the subjects of this application at King George V Fields. Both she/her family use the subjects for walking and recreation. For the reasons and on the grounds outlined in this letter of objection, our client submits that this application is unsympathetically designed, fails to accord with the Development Plan and that there are no material considerations otherwise justifying its approval. Accordingly, our client submits that permission should be refused by Perth and Kinross Council at this time in view of the negative impacts the proposal will have on the surrounding area.
3. Our client's concerns centre specifically on the following –
  - i) Detrimental impacts on place-making due to the inappropriate scale/layout of the proposed development;
  - ii) Loss of amenity space and unacceptable impacts on adjoining proprietors due to the proposed development of what is effectively only a buffer strip of land at present. It is foreseeable this will result in, and exacerbate, unacceptable noise/nuisance impacts over time;
  - iii) The loss of mature trees and impacts on wildlife contrary to policy, without required surveys having been undertaken and no adequate justification as to why such loss and impacts cannot be avoided. The Applicant leapfrogs to compensation without assessing the requirement firstly for avoidance. Moreover, our client believes the said trees were part of the original permission for this site precisely for the purposes of screening; and
  - iv) The loss of a well-established pathway which is used frequently by other members of the community. Again, in our submission, contrary to policy in the Adopted LDP (2019).

Taken together, these are matters which we submit on behalf of our client cannot be addressed by way of planning condition alone and reflect an overall failure by the Applicant to design these issues out in the proposed site layout. Our client underscores that an alternative application could be put forward by the Applicant, should it elect to do so, in respect of the space existing between the eastern perimeter of the hockey pitch and the northern rugby pitch which would more sympathetically accommodate the development in the surrounding landscape without the same-degree of associated negative impacts (see: Figure 4, Annex A).

### **1. Negative Impacts on Place-making due to the Scale / Layout of the Proposed Development**

We submit that the proposal clearly **fails to accord with Policy 1 (Placemaking) of the Adopted LDP (2019)** particularly in terms of not respecting the character and amenity of the place. Policy 1A specifically requires that development must contribute **positively** to the quality of the surrounding **built and natural** environment. We submit this development will, self-evidently, do neither. Furthermore, the *“design, density and siting of the development should respect the character and amenity of the place”* (emphasis added).

It is acknowledged that this is an extension to the existing playing fields, but it will result in an increased mass/scale which abuts directly with larger detached properties, removing a key buffer which differentiates the uses of the land and impacts detrimentally on the otherwise open and leafy feel of the surrounding area. We address the issues specifically in relation to the planned loss of mature trees further below (heading 4). However, it is important to acknowledge here that the trees provide an important function also in screening the artificial pitch from the houses on the Muirs (both on the east and west sides). The trees moreover are visible from the road and form part of the streetscape of this route through Kinross.

### **2. Loss of Public Amenity Space and Unacceptable Impacts on Adjoining Proprietors of the Site**

The development proposal will appropriate additional land at the playing fields by the Applicant (Kinross Astro SCIO). Our client submits this will also result in the restriction of access by the public to an amenity area of circa **858 square metres** (approx. 8.8m x 97.5m). We draw attention to the fact that the figures provided by the Applicant in the Supporting Statement (at page 1) appear to be incorrect (ref: *“approx. 7 metres wide and 64 metres long”*). Our client understands that the distance from the current chain link fence of the artificial pitch and wall separating the houses on Muirs from the playing field is rather **8.8 metres**. The 64 metres length referred to by the Applicant is presumably only the section to be covered in hard surfacing (64 x 8.8m i.e. 563 sq m)? However, fencing is also planned to be inserted around the retained trees and grass which will, therefore, also be inaccessible to the public and are not accounted for.

### **3. Suitability of the Site for the Proposed Development, Loss of Privacy & Increased Noise.**

The site is already in close proximity to the adjoining properties which are residential dwelling houses. The added expansion proposed will result in unacceptable further loss of privacy and foreseeably create additional noise and nuisance issues, as well as exacerbating the existing such issues at this site. The removal of trees will moreover also increase impacts from the floodlighting when the pitch is in use.

### **4. Biodiversity Impacts and Loss of Mature Trees**

The Application proposes the removal of three (3) mature trees at the site without any adequate justification as to why this is unavoidable. In this context, we draw specific attention to Policy 40A & B (Forestry, Woodland and Trees) and Policy 41 (Biodiversity) of the Adopted LDP (2019).

A member of our client's family has submitted proposals (in October 2019) seeking a Tree Preservation Order be placed on the trees which are now at risk from this application. Although technically competent as a means to protect such trees, we understand that standard practice is that trees on Council owned land are not generally assessed to be at risk. The Council has thus far declined to provide for such protection. Notwithstanding, the Council must as part of this planning application ensure adequate provision is now made for the preservation or planting of trees (section 159(a) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Our client notes that the application has been validated but is not accompanied by any supporting 'Tree Survey'. In this respect, we draw attention specifically to the terms of Policy 40B of the [Adopted LDP \(2019\)](#), which you will be aware provides:-

*"Trees, Woodland and Development –*

*Tree surveys, undertaken by a suitably qualified professional, should accompany **all applications for planning permission where there are existing trees on a site.** The scope and nature of such surveys will reflect the known or potential amenity, nature conservation and/or recreational value of the trees in question and **should be agreed in advance with the Council...**" (emphasis added)*

On a plain dictionary interpretation, the use of the words "should" in this context clearly imports an expectation such survey will require to be provided where there are, as here, trees on a site. Here, the trees are not only present – we underscore three (3) are planned to be felled. It is important to ensure that public participation can take place by the 'public concerned' on a complete application and we highlight that the Council is obliged to request any missing information as soon as possible from the Applicant. We have raised this with the Planning Officer prior to submission of this objection.

We stress that this is not simply a matter that should be addressed by condition as part of the determination of the application. The ability for the public concerned to review such survey, as part of assessing anticipated environmental impacts of the proposal, are central to the meaningful exercise of public participatory rights. They are also necessary to enable proper assessment by the Council of impacts of the proposed development and to facilitate compliance by it with its own duties, *inter alia*, under the Nature Conservation (Scotland) Act 2004 (section 1).

In its application, the Applicant makes a concerning leapfrog to the planting of immature saplings which simply does not compensate for the loss of mature trees (one Rowan and two Common Lime). The trees range in size from approx. 7m high to 9m high. The policy requirement is instead explicitly clear in the Adopted LDP (2019) – only "*in exceptional cases where the loss of individual trees... is unavoidable, the Council will require mitigation measures to be provided.*" (emphasis added). The requirement is firstly for avoidance.

Again, we submit that inadequately justified proposals for storage do not outweigh these policy considerations which create a presumption of the need for the retention of the trees. Moreover, there is a suggestion that Kinross Astro wishes the trees to be removed as a mere convenience to deal with maintenance issues arising from leaf fall (per Article by Kinross Astro, Kinross Newsletter, November 2019). We stress that this neither accords with the development plan, nor national guidelines.

## Wildlife impacts

Our client also draws attention to the fact that the trees in question are used by wildlife (i.e. nesting birds etc) and may also host European Protected Species<sup>1</sup> (including, bats) and other Protected Species (including, red squirrels etc)<sup>2</sup>. **There is clear local knowledge of bat activity within the said trees.** All bat species found in Scotland are, of course, classed as European Protected Species. Moreover, bats and their roosts are protected whether bats are present or not.

Scottish Planning Policy requires that the *presence or potential* presence of legally protected species is factored into both the **planning and design** of development proposals and considered fully prior to determination. The Council / Applicant will be aware that SNH will generally only be able to issue a licence to permit tree works where a bat roost is present and no alternative is possible. We refer in this respect to SNH's standing advice for planning consultations for its whole terms (a copy of which is enclosed herewith for ease of reference). As we understand it, no bat roost survey has been carried out in this case either. We again underscore in this context the Avoid-Mitigate-Compensate hierarchy which does not appear to have been followed by the Applicant. Concerns on this point and offence risks have also been raised separately with the Council in terms of the Head Lease.

## 5. Pathway

The proposal will remove an established pathway which is used frequently by others accessing the fields. Aside from the planning process, it may also impinge on legal rights of access to adjoining proprietors.

Policy 15 (Public Access) of the Adopted LDP (2019) details that *“Development proposals that would have an adverse impact upon.... asserted right of way or other well-used route... will not be permitted”* (emphasis added).

Our client notes that the Applicant has checked the box “No” in answer to the question *“Are you proposing any change to public paths, public rights of way or affecting any public right of access?”*. No justification for this is provided. Albeit that we understand that the path is not within the formal core-path network – in terms of the Land Reform (Scotland) Act 2003 – it is a well-established and used pathway. Our client refutes the suggestion that access rights are not exercisable on land that is set out as a playing field. This part of the subjects is not currently a sports pitch; rather, it is a landscaped public amenity area. The impact is that residents / walkers with their children / pets etc will be pushed to the pathway on the main road.

At page 3 of the Supporting Statement, it is noted that *“wall owners would continue to have unrestricted access to the wall on the “pitch side””*. This strongly indicates that the gates will be locked at either end – a position reinforced by representatives of the Applicant in discussions with the Community Council and neighbouring residents mentioning that keys will be given to those properties. This also raises legal issues out with the planning process. In planning terms however, this suggests access by the wider community will be prohibited when the site is not in use. Any proposals for a key are, in our submission, insufficient to address this amenity restriction in planning terms.

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<sup>1</sup> The Conservation (Natural Habitats & c.) Regulations 1994 (as amended).

<sup>2</sup> Wildlife and Countryside Act 1981 (as amended), Schedules 5 and 6.



There are further references in the Applicant's Supporting Statement to issues around inconveniences caused by dog faeces etc. at this site. We stress that these are matters for the local dog warden and in no way justify the removal of open access areas and the blocking of access to the public. As such, we stress that no weight should be placed on this submission by the Applicant.

## **6. Drainage**

At page 2 of the Supporting Statement, the Applicant asserts that they are "*ensuring the surface remains permeable so our changes would not affect surface water in the area*". It is important to note, however, that the existing trees at this site will take up significant levels of water. It is important the Authority is satisfied there have not been underestimations of these impacts by the Applicant.

## **7. Other Points**

Health and safety (item b) in Supporting Statement – at present, spectators can clearly stand behind the chain link fence for safety. We note consented application 19/00611/FLL also contains proposals for an enlarged pavilion with a viewing terrace.

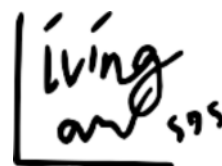
Health and safety (item c) in Supporting Statement – we note that the Kinross Astro has a storage unit already next to the pitch where bags could be left, or at the pavilion. (And, it is for the Council as Head Landlord under the lease arrangements to oversee management of same).

## **8. Removal of Maintenance Liability**

There is reference in documents we have seen to "*reduced maintenance requirements for PKC – no more mowing of the narrow strip of grass*" and impacts of leaf fall on the pitch itself.

Our client is concerned that the underlying driver for this application, rather than simply expanding existing facilities, is (at least in part) a desire to remove maintenance liabilities from the Council, which is responsible for cutting the grass on KGV. Moreover, to reduce the maintenance required by the Applicant of the artificial pitch surface.

Our client stresses that any such assumptions are ill-conceived as it will be necessary in any event to continue to maintain the north section relative to the retained trees and maintenance access difficulties may be an issue. We have separately raised these and other related concerns with the Council's Estates Department (as Head Landlord).



20/03/2020

Living Law

## **Annex A – Photographs**



**Figure 1: Aerial photograph of site (at September 2019)**



**Figure 2: Pathway and greenspace to be lost from north-south view**





**Figure 3: Pathway and greenspace to be lost from south-north view**



**Figure 4: Alternative existing space between east perimeter of hockey pitch & northern rugby pitch**

Figure One: Copyright Ken Whitcombe, Aerial Photography 2019 ©. Reproduced here with permission.

All other photographs © Eileen Thomas 2019.



## STANDING ADVICE FOR PLANNING CONSULTATIONS

### Protected Species: Bats

**This is standing advice to help planning applicants seeking permission for development that could affect bats, and to assist planning officers and other regulators in their assessment of these applications. It avoids the need for us to advise on individual planning consultations in relation to bats. We will only provide further advice in exceptional circumstances that are not covered by this standing advice.**

#### Consideration of protected species in development management

Scottish Planning Policy requires that the presence (or potential presence) of legally protected species is factored into the planning and design of development proposals, and that any impacts on protected species are fully considered prior to the determination of planning applications.

Where impacts on a protected species cannot be avoided, certain activities may only be undertaken with a licence from SNH. **It is important that any licensing issues are considered as part of a planning application to avoid any unnecessary delay to a development proceeding.**

#### Legal protection for bats

All species of bats occurring in the Scotland are classed as European Protected Species (EPS) under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). It is therefore an offence to deliberately or recklessly:

- kill, injure, capture or harass a bat;
- disturb a bat whilst it is using any structure or place for shelter or protection (roost sites), or in any way that impairs its ability to survive or breed, or significantly affects the local distribution or abundance of the species;
- obstruct access to a roost site, or otherwise deny its use by bats.

And whether or not deliberate or reckless:

- to damage or destroy a bat roost, irrespective of whether bats are present.

This means that if bats could be affected in these ways by a development, and no action is taken to prevent it, an offence may be committed. The advice below will help ensure that impacts on bats are minimised and no offences occur.

#### When a development could affect bats

Shetland is the only part of Scotland where bats are not resident, and so do not require any consideration. Bats are known to occur locally on Orkney and many Hebridean islands



(including Lewis & Harris), so their presence cannot be ruled out in these island groups even where there are no recent records. For the latest distribution maps see the [National Biodiversity Network Atlas](#). The NBN Atlas maps indicate the broad pattern of distributions across Scotland but cannot provide detailed information for individual development sites. Local Record Centres may have additional information that can help determine if bats are likely to occur on a site.

Bats commonly roost in undisturbed spaces in buildings and in crevices and hollows of trees. They also use crevices in bridges and underground sites such as caves, mines, tunnels and ice-houses. Roost sites can be in both urban and rural situations. They can therefore be affected by a wide range of development types and locations where trees, caves or man-made structures need to be modified or removed, or where construction activity may disturb a roost (eg. noise, lights and, human presence).

**A bat roost survey should be carried out if a proposal could affect bats in these ways.** A list of triggers for bat surveys is provided in [Bat Surveys for Professional Ecologists: Good Practice Guidelines](#) (Bat Conservation Trust 2016).

Wind farms can pose an additional risk to bats due to the potential for bats to be killed or injured by colliding with the moving turbine blades, and/or due to internal damage caused by sudden reductions in air pressure close to moving blades (barotrauma). **Wind farm proposals may require a bat activity survey to assess this risk and the potential impact on bat populations.** For more details see [Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation](#).

### Carrying out a bat survey

Surveys should be done by persons with the appropriate knowledge of bat ecology and practical experience of bat survey work, and in accordance with [Bat Surveys for Professional Ecologists: Good Practice Guidelines](#). Timing of roost surveys is complicated by the fact that bats use different roost sites at different times of the year; for shelter, breeding and mating during the main active period between April and October, and for hibernating over the winter between November and March. Bat activity surveys for assessing the risk of wind farm collisions should be done between April and October, following the methods described in [Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation](#).

The level of bat survey needed will depend on the nature and scale of a development proposal, and should be proportionate to the degree of risk to bats. Deciding on the level of survey requires the judgement of an experienced ecologist. **Where surveys require the close inspection of known roost sites, and bats could be disturbed, surveyors will require a survey licence from SNH to avoid committing an offence** (contact [licensing@nature.scot](mailto:licensing@nature.scot)). A survey licence isn't required for examining potential roost sites with no known history of use by bats, but if an unlicensed surveyor discovers bats, or their signs, and any necessary further examination may result in the disturbance of bats, then they should withdraw immediately and apply for a licence to continue with the survey.

### Reporting survey results

**If a development proposal has needed a bat survey, a survey report must be submitted as part of the planning application.** The report should include:

- names, experience and licence number of surveyors;
- details of any information gathered from Local Record Centres or other sources;
- descriptions of habitat surveyed and any limitations to the survey, such as access to



- roof voids and visibility when undertaking roost exit/re-entry counts;
- survey methods, including survey area, date, time, weather conditions, and mapping the location of surveyors in relation to structures during surveys;
- details of any acoustic detection equipment used;
- a map showing location of roosts and entry/exit points, and other key areas of bat activity such as commuting routes and foraging areas, in relation to development;
- the status of each roost (maternity, hibernation etc.), an estimate of the number of bats of each species in each roost and an assessment of the overall importance of the development site for bats;
- an assessment of how the development might affect bats.

Details of the bat activity information to report as part of a wind farm collision risk assessment are provided in [Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation](#). The presentation of the bat activity data should follow the standardised format described in this guidance and be entered into an online tool (Ecobat) to gain a measure of the level of bat activity relative to other locations in the region.

**If bats could be affected by the proposal, the report must include a protection plan.**

The plan should include:

- measures proposed to minimise impacts on bats, including annotated maps and/or photographs showing the location of any measures proposed and how they relate to survey information and construction work;
- a summary of any residual impacts once the above measures are taken into account;
- details of any licensing requirements.

### Measures to minimise impacts on bats

Measures to minimise impacts on bats should follow a hierarchy of avoidance, mitigation and compensation:

#### Avoidance

- Design the development and construction methods to avoid damage or disturbance to bat roost sites, and allow their continued use; and to minimise any loss or fragmentation of foraging and commuting habitat.
- Schedule works to avoid the period when a roost is in use and might be disturbed.

#### Mitigation

- Temporarily exclude bats from a roost while works take place.
- Minimise new lighting around roosts, foraging or commuting corridors.

#### Compensation

- Provide alternative roost sites as appropriate, if the destruction or permanent exclusion of existing roost sites is unavoidable - for maternity roosts this should be like for like compensation.
- Restore or improve habitat to replace lost habitat or habitat connectivity.

Details of these measures and their implementation are provided in [Bat Mitigation Guidelines](#) (English Nature 2004). Measures to retain the original roost location and access are always preferable to more intrusive approaches such as exclusion and the provision of alternative roost sites. **The destruction of a roost, or exclusion (temporary or permanent) of bats**

**from a roost, will require a licence from SNH.** Works carried out under licence will need to be timed carefully so as to avoid any direct harm to bats.

Avoidance and mitigation measures to minimise the collision risk to bats from a wind farm proposal include:

- siting turbines to avoid areas of high bat activity;
- 50m buffers between turbine blade tips and habitat features used by bats for foraging ie. woodland edge, hedgerows and watercourses;
- slowing down the rotation of turbine blades (feathering) during periods of high bat activity.

See [Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation](#) for details of when these measures are appropriate and their implementation.

**For all development proposals where bats are a consideration, pre-construction surveys should be timetabled into project plans.** This is to enable checks for any roosts that may have become occupied after the original survey, and to ensure the measures proposed to minimise impacts on bats remain appropriate.

### Licensing development works affecting bats

Licences for development works that would otherwise result in an offence with respect to EPS, such as bats, can only be issued if it can be demonstrated that the following three tests are all met:

**Test 1** - that the purpose of the licence is to preserve public health or public safety or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

**Test 2** - that there is no satisfactory alternative

**Test 3** – that the proposed action will not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range.

There is a presumption against licensing the destruction or exclusion of maternity bat roost sites while they are being used. Any licensed works in these circumstances would have to wait until the roosts are unoccupied; normally between 1 October and 31 March.

For advice on applying Tests 1 and 2 see SNH guidance [European Protected Species Licensing Test 1 – Licensable Purpose](#) and [European Protected Species Licensing Test 2 – No satisfactory alternative](#). For advice on applying Test 3 and whether or not a licence is likely to be granted, planning applicants should contact the SNH licensing team ([licensing@nature.scot](mailto:licensing@nature.scot)), and report the outcome of this discussion to the planning authority prior to the determination of the application.

A licence is likely to be granted for low impact works meeting the above tests and where all the following points apply:

- planning permission has been granted for the development/works in question;
- works will only affect soprano pipistrelle or common pipistrelle bat roosts that are not used for breeding or hibernacula;
- bat surveys have been carried out by a licensed ecologist in accordance with the best practice outlined above, and within the last 18 months;
- a bat protection plan has been prepared by a licensed ecologist in accordance with the best practice outlined above.

For development works affecting low numbers of non-breeding soprano and common pipistrelle bats, we have adopted a bat low impact licensing approach (BLIMP). This is a more streamlined approach that enables experienced ecologists to permit low impact works without having to apply for individual licenses in each case. For more information see our guidance [BLIMP Licence – When and how it should be used, an ecologist’s guide](#).

Guidance on applying for a bat licence for development purposes, along with the application form can be found on our [website](#). For further information on protected species licensing see [Protected Species Licensing: Legislation, Appropriate Authorities and Licensing Purposes](#).



## Consultation Response to a Planning Application

Consultee	Planning App. Ref:	Request Date	Response Date
Paul Kettles Enforcement Officer (Trees) [REDACTED]	20/00288/FLL	28.04.20	28.04.20
Proposed Development	20/00288/FLL alterations to boundary fence, formation of hard standing, erection of a storage shed and associated works at King George V Playing Field, Muirs, Kinross.		
Site Address	King George V Playing Field, Muirs, Kinross.		
Introduction	<p>An application has been received which will impact on trees within an area of open space currently managed by Perth and Kinross Council.</p> <p>Within the King George V playing fields are areas of trees flanking the green space boundaries.</p> <p>It is not unusual within parks and open spaces to see amenity tree planting around large open spaces to provide landscape structure &amp; amelioration to an otherwise open site.</p> <p>Indeed, the introduction of boundary trees in green spaces is evident on both the Inches in Perth where mature trees bound the site, providing amelioration between dwelling houses and the main areas of functional open space. Trees are widely planted to break up the expanse and provide soft screening between open space users and the surrounding residential properties, and vice versa, as well as providing a valuable amenity and biodiversity function.</p>		
Assessment	<p>The six trees planted in a lineal arrangement at the west boundary of this open space in Kinross, for the purposes and intentions as outlined above, should be considered no differently in terms of their function and value.</p> <p>The lime and rowan trees that exist at this site, provide branch tracery in the dormant months which breaks up the skyline, leaf and berry colour during the growing season, and autumn colour from late August to leaf fall.</p> <p>The rowan (<i>Sorbus aucuparia</i>) is a British native, and therefore has biodiversity value. It is asserted the limes are Caucasian, (<i>Tilia x euchlora</i>), although non-native, are an attractive lime suitable for parks and public open spaces.</p> <p>The trees are considered to provide biodiversity value, which will increase with their maturing and development.</p> <p>In terms of any noise being generated by the users of the open space, the trees provide offer mitigation, insofar as they generate leaf and branch noise, masking other noise sources.</p>		

<p><b>Proposed Tree Removal</b></p>	<p>The trees at this site provide amenity benefit to the householders through affording them privacy, and visual amenity. The trees also provide the open space users with visual amenity and landscape interest and are therefore considered of value.</p> <p>The proposal would result in the loss of three trees at this boundary, namely two limes and one rowan, all of which are in good health, showing no signs of decline, decay, or inherent weakness. The three trees are well established trees situated within the grass strip situated between the all-weather hockey pitch and the west boundary wall with the adjacent dwellings.</p> <p>The trees vary in height, but range between 7.0m – 10.0m.</p> <p>The removal of the three trees would result in the loss of the linear planting effect at this location provided by the six trees.</p> <p>In light of the increased tree loss occurring nationally through diseases (including ash dieback), and the well published benefits of trees from a landscape, amenity, biodiversity, and wellbeing perspective, it is very disappointing that these benefits have been discounted in this development proposal.</p> <p>Replacement planting of trees elsewhere in the open space would not adequately compensate, as their contribution and function is in respect to where they are positioned on the west boundary of this open space.</p> <p>The proposal seeks to remove an established landscape feature for the benefit of a single user type.</p> <p>The restriction of free access to this area of land for walkers and open space users, limits the use of this public open space, currently available for all.</p>
<p><b>Public Interest</b></p>	<p>It is worth noting that Perth and Kinross Council have received a request for the trees to be afforded statutory protection through the mechanism of a Tree Preservation Order, which remains under consideration.</p>
<p><b>Conclusion</b></p>	<p>The proposal seeks the removal of three existing trees considered of amenity value, and biodiversity benefit.</p> <p>The proposal is contrary to Policy 40A of the adopted Local Development Plan 2, which seeks to encourage the protection of management of groups of trees of amenity value.</p> <p>The loss of a visual buffer and the screening provision afforded by the trees at the west side of this open space, is considered unacceptable.</p> <p>The proposal fails to consider the future development and growth of the trees at this location which will provide increased biodiversity benefit and additional amenity value, as they mature.</p>



<p><b>Recommendations</b></p>	<p>It is my opinion that the benefits of the proposed development do not outweigh the benefits these trees currently afford and will continue to provide as they continue to mature, and for this reason the proposal must be resisted.</p> <p>Refuse the application for reasons stated above.</p> <p><b>Paul Kettles</b>  <b>Enforcement Officer (Trees)</b></p> <p><b>28 April 2020.</b></p>
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<b>Planning Application ref.</b>	20/00288/FLL	<b>Comments provided by</b>	Jane Pritchard
<b>Service/Section</b>	Community Greenspace	<b>Contact Details</b>	
<b>Description of Proposal</b>	alterations to boundary fence, formation of hard standing, erection of a storage shed and associated works at King George V Playing Field, Muirs, Kinross.		
<b>Address of site</b>	King George V Playing Field, Muirs, Kinross.		
<b>Comments on the proposal</b>	<p>Community Greenspace maintains the public open space within the park for the amenity of the community. The area within the application is currently public open space and is used as an access to the wider park. It also has a number (six) of trees which provide a pleasant border between the park and the adjacent houses and contribute to the biodiversity of the park. The trees also provide some screening between the pitch and houses. As the trees mature their value for amenity, biodiversity and screening will increase.</p> <p>The supporting statement states that three trees will be provided to be planted elsewhere in the park to compensate for the trees proposed to be removed. If consent is given: to compensate more adequately for the removal of three trees, five 16-18 Extra Heavy Standards (Rowan &amp; Lime) should be provided and the species and positions for planting agreed by CG, the KGV committee and the neighbouring residents; construction must assure protections of retained trees in line with BS 5837:2005 Trees in Relation to Construction, this must include adequate fencing of trees and their root protection areas, no storage of material or vehicles or driving of heavy machinery within root protection areas; the applicant would require a separate maintenance agreement as this area would no longer be public open space or maintained by the Council.</p> <p>The applicant should demonstrate that the proposal has the support of the neighbouring residents and wider community and as well as those with a direct interest in the pitch-based facilities. The objections received to date do not adequately demonstrate this and on this basis, we recommend refusal.</p>		
<b>Recommended planning condition(s)</b>	<p>CG recommends refusal.</p> <p>If consent is granted five 16-18 Extra Heavy Standards to be provided as compensation for the three trees to be removed and protection of retained trees to be assured.</p>		
<b>Date comments returned</b>	12.5.20		



# Memorandum

To Head of Development Management From Regulatory Services Manager

Your ref 20/00288/FLL

Our ref RM

Date 14 May 2020

Tel No (47)6443

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

**The Town and Country Planning (Scotland) Act 1997 as amended by Planning etc (Scotland) Act 2006**

**Consultation on an application.**

**RE: Alterations to boundary fence, formation of hardstanding area, erection of a storage shed and associated works King George V Playing Field Muirs Kinross for Kinross Astro SCIO**

I refer to your letter dated 4 March 2020 in connection with the above application and have the following comments to make.

**Contaminated Land** (assessment date – 20 March 2020)

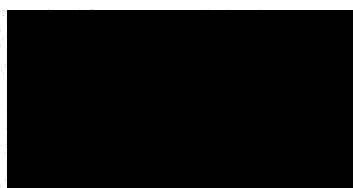
This redevelopment site has not been consulted upon prior to this consultation:

## Comments

Historical mapping has identified that the adjacent site was a former gasworks and I suspect the reason why the request for consultation on this application. This is well away from the redline boundary. It is unlikely that this will impact on the proposal.

## Recommendation

A search of the historic records did not raise any concerns regarding ground contamination directly on the application area and therefore I have no adverse comments to make on the application.









Thursday 3<sup>rd</sup> Sept 2020

Director of Planning  
Perth and Kinross Council  
Pullar House  
Perth

Application Ref 20/00288/FLL

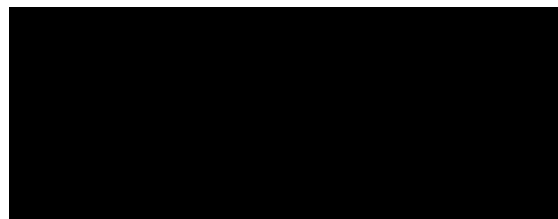
Dear Sir

Thank you for your communication of 28<sup>th</sup> August 2020.

I am concerned that this has now moved to an appeal.

I stand by all the objections I made in March 2020 and would add that the hockey pitch is the only fenced-off piece of King George's Playing Field Kinross. It is the only part which has been taken from public use, the rest of the field, despite being marked with pitches for specific sports, can still be used and enjoyed by the population at large. I might say that during the recent lockdown, such land for common use was busier than usual. I really do not think it right that one group within a town should have the sole rights to a piece of open ground given to the townspeople many years ago. I certainly do not think that they should be given even more of it.

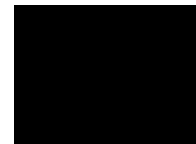
Yours sincerely



Mrs Catriona McLeod



Perth & Kinross Council  
Clerk to the Local Review Body  
Council Building  
2 High Street  
Perth PH1 5PH



3.09.2020

Dear Ms. Simpson,

**20/00288/FLL**

Thank you for your letter of 28.08.2020, informing me of the applicant's appeal against the refusal of planning permission.

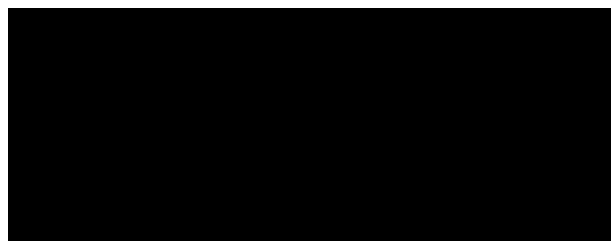
When I received the original proposals from Kinross Hockey Club, prior to their application for planning consent, the drawings showed that the ground between the hockey pitch and the backs of the dwellings, running the entire length of the hockey pitch, was to be developed. I wrote to KHC (Mr. Duhre) expressing my opposition to the felling of the trees, and in particular the tree behind my property which is a much-used wildlife habitat. I detailed some of the species using the tree and surrounding area in my previous letter to yourselves. I noted that the drawing submitted with the planning application had taken my comments into account, and the development now stops short of my property, leaving the tree untouched. In view of this, I feel honour-bound to support the application, although having a sports facility directly against the wall of a residential property is not ideal.

I am, however, concerned to ensure that there is no divergence "on the ground" from these drawings. Recent developments in Kinross have seen a number of breaches of planning consent, in particular on the Persimmon sites, as well as the accidental (?) demolition of Kirklands garage building. There has also been a considerable clearance of trees and bushes on the site of the old Windlestrae hotel site. I look to Perth and Kinross Council to ensure that there is no "development creep", or accidental damage to trees by KHC's contractors.

I wish KHC well, and hope that they continue to be good and considerate neighbours.

Yours faithfully,

Graham M McLeod.





## CHX Planning Local Review Body - Generic Email Account

---

**From:** Nick Rowan [REDACTED]  
**Sent:** 06 September 2020 21:44  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Cc:** Audrey Brown - CHX; Casey Buckingham  
**Subject:** Re: LRB-2020-22

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Lisa,

Thank you for your email letting us know about the review.

From reading Gurdial Duhre's Notice of Review, and in respect of the section 'Statement' and the attached narrative (Response to the Reasons for Refusal and supporting documentation) which responds to same, we would provide the following reasoning to why Mr Duhre's response is inaccurate and therefore shouldn't be taken into account when undertaking the review of the original decision. Please account for this email as making further representation of our position (objection) in regard to the application:

Mr Duhre makes a number of statements which are factually incorrect - summarised below:

Point 1 of the ' Response to the Reasons for Refusal'

1. ' Kinross Astro Scio (KAS)are of the opinion that to refer to the playing fields as “Residential Areas” is incorrect' - this is factually incorrect, the four houses directly impacted by the application were built circa 1880 - the hockey pitch is relatively new compared to the status of the adjoining land which is all residential; and
2. 'There is no removal ofthe “existing buffer”’ - the strip of land between the hockey pitch and our property is used sporadically and the introduction of dug outs and spectator viewing will directly impact on our privacy and environmentally on noise. Furthermore, the reduction in the height of the perimeter fence to the hockey pitch would provide a safety hazard in respect of hockey balls entering our property.

Point 3 of the ' Response to the Reasons for Refusal'

1. 'the trees do provide any screening' - please find enclosed photos that demonstrate that the trees that would be removed as part of the application provide privacy and visual amenity (as referenced not only in the objections but in the Tree Enforcement Officers consultation response). Mr Duhre fails to recognise that the trees still provide screening at an angle from parts of the pitch, the pitch being much wider than our property;
2. ' with a six foot wall screening the pitch,what are the trees screening' our wall is 5ft tall and does not provide privacy alone it is the combination of the trees and wall that provide a reasonable level of privacy - without one or other our privacy is impeded. Furthermore, the trees give our house screening from the harsh appearance of the artificial pitch and chainlink fence all year round, even when there are no hockey players using it;
3. ' The three trees in question are deciduous and have no roosting unlike the other three which is why in consultation with the neighbour they are being retained' - firstly, the trees in question are used by Pigeons, Magpies and Starlings and secondly, no consultation has been held with us or 57 Muirs to whether trees should be kept or removed; and

4. 'The league season goes from the end of September to Easter. Floodlights are used from mid/late October to mid/late March' this is factually incorrect - we took note that they were on every evening Monday to Thursday last week (31st August to 3rd September).

Please take this as confirmation and to reiterate our objection to the application - the above provides evidence that Mr Gurdial Duhre's Notice of Review is factually incorrect and does not address the wider principle issues that the adjoining property owners have with the proposed alterations.

Kind Regards

Nick and Casey  










## CHX Planning Local Review Body - Generic Email Account

---

**From:** James Marshall [REDACTED]  
**Sent:** 10 September 2020 21:19  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Application Ref:20/00288/FLL –Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross  
**Attachments:** c2ce2001-280f-4d83-b241-53e1881f98d9.jpeg; 5f92e349-c1ec-4a2d-a84b-e82b4055bf66.jpeg; 338df138-6da2-4cb1-b265-909df0c64c8b.jpeg; a3e0a086-a31e-48b0-bced-7100909e5eb1.jpeg  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Ms Simpson

With reference to the applicant's response to the decision of the Council, we would like to make these observations, in support of our rejection of the proposal to alter the Hockey Pitch.

*1 The trees do not provide any screening.* First of all, as part of the application process to install the pitch, the trees were included as a way of softening the anticipated noise and light spill, as a mitigating factor by the Council. Indeed when a Lilac tree was recently removed from directly behind our property (it was apparently diseased), there has been a substantial increase in both noise and light pollution from the facility. Taking the remaining trees away will only make matters worse, because these trees definitely provide some respite, even at an angle. (See photos)

They also provide some screening of the ugly light fixtures themselves, which is a bonus, even when the lights are not illuminated, and the trees have no leaves. It can also be said that these trees are not yet mature and will progressively provide addition cover as they grow.

The applicants suggest that the floodlights are used from mid/late October to mid/late March. Well the photos above (with floodlights on) were taken earlier this week on Monday 7th September.

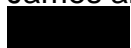
*2 Access to the King George V playing fields.* The applicants have totally ignored the fact that we currently enjoy direct access to the playing fields (a public landscaped area) and have done so for thirty years. (see photo) Under these proposals our gate would open onto a privately-leased warm up area for hockey players. It is not clear from their resubmission, but their original proposal included the installation of a raised flower bed, which would block our gate completely.

*3 Safety aspect.* Perhaps the most alarming aspect of the proposal is the requested reduction of the current 3.6m high fence, that runs parallel with our boundary wall, to ONLY one meter. Our objection to this change has not been dealt with in the re-submission. The applicants say that the current fence on our boundary wall will remain, but how many more hard projectiles will be hit over this fence? Even with the current 3.6m fence (which is close to the pitch), we already get balls hit into our garden. Temporary goals are placed directly in front of our property during practice/training sessions. Again its not clear in the review application but we find it ironic that the applicants feel it's important to INCREASE the height of the fence at the end of the pitch, to protect the rugby pavilion.

For these reasons we respectfully suggest that the Council uphold their original decision.

Kind regards

James and Margaret Marshall



















Lisa Simpson  
Clerk to the Local Review Body  
Perth & Kinross Council

by email to: PlanningLRB@pkc.gov.uk

10/9/20

**Dear Ms Simpson**

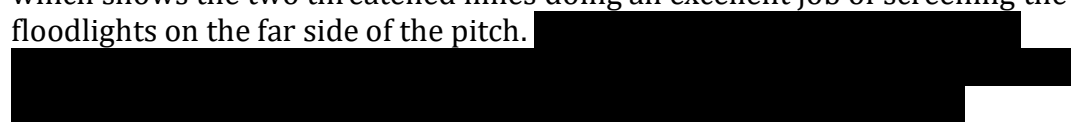
LRB-2020-22



I understand my initial comments will be taken into consideration, but I wish to make comment on the application for review. I would like to thank the appellant for quoting from the planning regulations in his attempted rebuttal of the reasons and justification for refusal of the original application. I had read these before making my initial comments, but did not quote them at length, as I trusted the planning officer to be familiar with them. I found it interesting that a selective abstraction of the regulations by underlining segments is used to try to justify the proposal. Selecting other segments of the same paragraphs can be used to the opposite effect. For example underlining terms such as “character of the area”, “respecting its environs”, and “natural environment” can change the emphasis significantly. I think this highlights a lack of perspective in the application in general.

To say “there is no removal of an “existing buffer”” seems ungrounded and goes directly against the view of local residents and the planning officer. Commenting that the trees are not in front of the houses is a pitch based observation, and static at that. Admittedly the aerial photograph shows that, from the airborne perspective, the trees provide little screening if you are in a hot air balloon, but you can draw lines of sight from residencies to unsightly constructions including light posts and the side of the pavilion. The impact of perspective in the ground level photograph making the trees appear bigger is exactly the point; they can and do screen more than just what is in one line of sight. So in answer to the question “what are the trees screening?” the answer is certainly light and sound, but also physical hardware. This is clearly stated in original objections wherein a neighbouring resident relates direct experience of a deterioration in light and sound baffling upon the loss of a previous tree.

In addition, I attach a photograph taken from the western side of The Muirs, which shows the two threatened limes doing an excellent job of screening the floodlights on the far side of the pitch.



Which brings me on to the floodlights. The statement that league season is mid/late October to mid/late March is disingenuous at best, ignoring as it does the use of floodlighting for training sessions and friendly matches. The lights have been on in the evening regularly from late August, with trees in full leaf, as seen in the attached photo.

Another, literally incredible, claim is that the area, surrounded on three sides by houses is not in a residential area. Even from the perspective of being on the hockey pitch, you can see there are neighbouring houses. And there are complaints of hockey balls arriving in residents' gardens!

I could argue more points, but my initial concern was the proposed felling of trees. Even the applicant admits Policy 40A Forestry and Woodland Strategy of the Perth and Kinross Local Development Plan 2 2019, section d is relevant. Also relevant are sections b: "protect existing trees", and e: "encourage the protection and good management of amenity trees." I do not think the applicant has been able to satisfactorily deny the amenity value of these trees. They are native species trees which, in addition to physical screening, provide wildlife habitat, food source and aesthetic satisfaction. The protection of trees is not dependent on historical or cultural amenity, and I understand that this grouping of trees was being considered for a tree protection order prior to the planning application process starting. The fact that these trees are not as large as others is related to their age, and cutting them down will certainly impair their ability to overcome this issue and provide future habitats and CO2 absorption. They should have many years ahead of them to improve the amenity they already have. Furthermore, the area is certainly frequented by bats, and I do not think there has been an ecological survey submitted. Planting three trees in an unspecified area on the southern aspect does not replace the amenity value of the current trees.

And finally, again a matter of perspective. I wish Kinross Hockey every success in their hockey, but I do not see why an avenue used daily and throughout the year by non-hockey players (exercising their dogs, walking to shops avoiding an increasingly busy road, etc. etc.) should be removed from public access and limited to use by a select group for select times of the year. I do not see why the area cannot continue to be shared as it is at the moment, and not to the exclusion of one group or another. If protecting the playing surface is a major concern, would it not be simpler and cheaper to require a change of footwear to artificial specific shoes when entering the artificial pitch arena?

I contend that all three reasons given for refusal remain extant and more than justifiable. I believe there may well be additional reasons for refusing the original application including impingement on civil liberties, but since one reason should be sufficient to prevent unwarranted development I will not extend into such areas, and trust that the Review Board will uphold the original conclusions.

Gareth Thomas







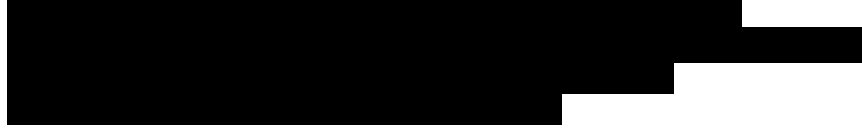
The two lime trees proposed for felling in full leaf and screening floodlights on far side of the pitch.  
Photo taken from west side of Muirs at 20:54 hours on Monday 7 September 2020.





# KINROSS-SHIRE CIVIC TRUST

*Helping protect, conserve and develop a better built and natural environment*



Lisa Simpson  
Clerk to the Local Review Body  
Perth & Kinross Council  
by email to: PlanningLRB@pkc.gov.uk

11 September 2020

Dear Ms Simpson

## **LRB-2020-22**

### **Application for Review by Kinross Astro**

**Application 20/00288/FLL (Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross)**

Thank you for your email of 28 August 2020 letting us know that Kinross Astro has made an application for review following the Council's refusal of planning permission for 20/000288/FLL. We understand that our original representation will be made available to the Local Review Body but would like to make further comments, hence this letter.

### **Procedural Matters**

The Trust would like to expand upon procedural matters that were raised in our original letter of objection dated 20 March 2020, i.e. the lack of professional tree and ecological surveys.

The Report of Handling (delegated report) for 20/00288/FLL said:

#### **“Trees Loss**

“The proposal would result in the loss of three trees namely two limes and one rowan, all of which are in good health, showing no signs of decline, decay, or inherent weakness. The applicant has not submitted a Tree Survey and one was not requested. There is no question of the health of the trees and we consider their location of amenity value. In particular as it became clear that we would not be supporting the proposal it did not seem reasonable to put the applicant to the expense of a survey (if we had determined a survey was necessary).”

However, the process did not stop with the planning officer's decision and we now find the application with the Local Review Body yet without the professional tree survey **required** by Local Development Plan 2 Policy 40B: “Tree surveys, undertaken by a suitably qualified professional, should accompany all applications for planning permission where there are existing trees on a site.”

Similarly, there is no ecological report. The presence of bats feeding along the tree line was brought to the attention of the planning authority in some of the original representations. Bats are European Protected Species.

The Report of Handling, pp 6-7, says:

**“Biodiversity**

“The biodiversity opportunities that the three trees provide has been noted as a concern particularly in relation to birds, red squirrels and bats. No Ecology Survey has been submitted with the proposal. The Biodiversity Officer considers (from images supplied) that there is likely to be little opportunities for roosting bats due to the age, size and overall good condition of the trees. Therefore she wouldn’t consider a survey necessary.

“She does further note the Biodiversity policy is about safeguarding both protected and non-protected species and habitats and recognise the local importance of these trees in providing bird nesting habitats and feeding areas for bats as well as connectivity for species including red squirrel.”

However, there is now the possibility that the Local Review Body might facilitate the overturning of the planning officer’s refusal.

We draw your attention to Scottish Planning Policy 2014, para 214, which says:

“The presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. **If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish their presence.** The level of protection afforded by legislation must be factored into the planning and design of the development and **any impacts must be fully considered prior to the determination of the application.**” [Our bolding.]

The relative youthfulness of the trees (early maturity) and their good condition does give a low probability of cracks and holes being present for bats to use as roosts. Nevertheless, an examination of photographs of the trees is inadequate as a way of assessing bat roost potential and in any case it is asserted that the trees have value to bats as a foraging zone and orientation feature. A detailed bat activity survey would have to be carried out for the impacts of the proposal to be “fully considered” in compliance with Scottish Planning Policy. Scotland’s Chief Planner wrote to all planning authorities on 16 May 2006 to emphasise that a requirement for an ecological survey to ascertain the presence of, or effects on, a European Protected Species **must not** be added to a consent as a suspensive condition. He reiterated that the effect of a planning proposal on a European Protected Species must be ascertained **prior to determination of the planning application**. (See appendix for copy of letter.)

In the Trust’s view, therefore, if the Local Review Body were to overturn the planning officer’s refusal of planning permission, this would result in the Council breaching the requirements of the Habitats Directive and The Conservation (Natural Habitats &c) Regulations 1994.

**Policy 15 (Public Access)**

The planning officer did not include Policy 15 as a reason for refusal, saying that although the proposal would block off an existing path, access would still be available through the wider area of open space. However, the Trust still regards Policy 15 as a valid reason for refusal. The path is used daily by local residents and provides a convenient surface and route for people of all abilities to pass through through this pleasant green space. It is used by some as a way of making part of their journey to/from the centre of Kinross away from the traffic of the busy main road. We would also draw the Review Body’s attention to the comments by Community Greenspace regarding this matter.

### **Matters Raised in 'Notice of Review'**

The Trust would like to comment on some of the points raised in the Statement section of the 'Notice of Review' which is described by the appellant as 'Response to Reasons for Refusal'.

#### ***Policy 17 Residential Areas and Policy 1 Placemaking***

The appellant claims that the refusal referred to the playing fields as "Residential Areas" and is aggrieved by refusal under Policy 17. Neither the Decision Notice nor the Report of Handling referred to the playing fields themselves as "residential areas". The Report of Handling accurately described the site as "located within the settlement boundary of Kinross within an area of zoned open space." Clearly the refusal under Policy 17 is because the proposal would have an adverse effect on the immediately adjacent residential dwellings.

The playing field is bound by dwelling houses on three sides. The dwellings most affected by this proposal were built towards the end of the 19th century, i.e. around fifty years before the land now known as the King George V Playing Field was given its designation and over 120 years before this planning application. The proposals clearly affect a long-established residential area so Policy 17 is a perfectly appropriate policy to determine them by.

Similarly, the appellant regards refusal under Policy 1 to be inappropriate because "the place" should refer to the playing field and not the residential dwellings. Again, the proposals cannot be viewed in isolation when there are dwellings immediately adjacent. However, Policy 1 does also apply to the field itself. The case officer concluded that the loss of the landscaped strip including the trees would be detrimental not only to the amenity of the occupants of the dwellings but also "the wider character and amenity of the place".

#### ***Status of field***

The appellant states that "The application has the support of Fields in Trust the ultimate custodians of the land".

The letter by Fields in Trust (20 Jan 2020) states "... I have consulted with our solicitor who advises that the development is consistent with the intended use of the site and as such does not require the approval of our charity." This would perhaps more accurately be described as Fields in Trust having no objection rather than Fields in Trust supporting the proposal.

The principal purpose of Fields in Trust (formerly the National Playing Fields Association) is to protect playing fields from losing their function as sport or recreational areas. Playing fields which are under a guardianship arrangement with Fields in Trust are protected from being sold off for development as housing or supermarkets, for example. As long as a proposal in such a field is consistent with the sporting or recreational intention of the field, Fields in Trust would not object. It is not Fields in Trust's place to consider the wider planning considerations such as effects on neighbouring residential amenity. That is for the local authority.

### **Conclusion**

For the reasons set out in our original objection and this letter, the Trust continues to regard the proposal as contrary to the LDP. We reiterate our concern that the Council would be breaching the requirements of the Habitats Directive and The Conservation (Natural Habitats &c) Regulations 1994 were it to grant consent. We urge the Local Review Body to reject the appeal.

Yours faithfully

Kinross-shire Civic Trust

Enc





## SCOTTISH EXECUTIVE

Development Department  
Planning Division

Victoria Quay  
Edinburgh EH6 6QQ

Heads of Planning  
Planning Authorities

Telephone: 0131-244 7061  
Fax: 0131-244 7083  
john.o'brien@scotland.gsi.gov.uk  
<http://www.scotland.gov.uk>

Your ref:  
Our ref:

16 May 2006

Dear Sir/Madam

**EC DIRECTIVE 92/43/EEC ON THE CONSERVATION OF NATURAL HABITATS AND OF WILD FLORA AND FAUNA ("THE HABITATS DIRECTIVE")**

**THE CONSERVATION (NATURAL HABITATS &c) REGULATIONS 1994 ("THE 1994 REGULATIONS")**

**EUROPEAN PROTECTED SPECIES, DEVELOPMENT SITES AND THE PLANNING SYSTEM: INTERIM GUIDANCE FOR LOCAL AUTHORITIES ON LICENSING ARRANGEMENTS ("THE GUIDANCE")**

It has come to our attention that some planning authorities are attaching suspensive conditions to planning permissions instead of fully ascertaining, prior to the determination of the planning application, whether a European Protected Species (EPS) is present on a site, or what the effect might be of such a species being present on a site. An example of this is a condition requiring that a development should not commence until a survey has been undertaken to determine whether bats, otters etc are present.

This letter is to remind planning authorities of the terms of the above Guidance; for ease of reference here is a link to the Guidance: <http://www.scotland.gov.uk/library3/environment/epsg-oo.asp>. The main paragraph that I would draw to your attention is paragraph 29. It states "*it is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either will not impact adversely on any European protected species on the site or that, in its opinion, all three tests necessary for the eventual grant of a Regulation 44 (the 1994 Regulations) licence are likely to be satisfied. To do otherwise would be to risk breaching the requirements of the (Habitats) Directive and Regulation 3(4). It would also present the very real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted, because no Regulation 44 licence would be forthcoming. Such a situation is in the interests of no-one.*" Case law has reinforced the general message that the EPS requirements must be met with the European Commission showing itself willing to pursue Member States where the process is not properly followed.

Accordingly, to ensure that all decisions are compliant with the Habitats Directive and the Regulations and the above mentioned Guidance, planning authorities should fully ascertain whether





protected species are on site and what the implications of this might be before considering whether to approve an application or not.

It should be noted that, if any future applications notified to the Scottish Ministers are found to have such conditions attached, they will be returned to the planning authority to (a) arrange for any necessary survey etc action to be carried out, and (b) reconsider the proposal in the light of the results.

SNH have reminded its staff of the requirements of this Guidance.

Yours faithfully

**JOHN O'BRIEN**



Direct: +44 (0)7929 996105

Email: [susan@livinglaw.co.uk](mailto:susan@livinglaw.co.uk)

Our Reference: ET/PLN/2020/01

Your Reference: LRB-2020-22



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**By Email Only**

**FAO: Ms Lisa Simpson**

Clerk to the Local Review Body  
Committee Services Team  
Legal and Governance Services  
Perth and Kinross Council  
2 High Street  
Perth  
PH1 5PH

By email to: [Planninglrbb@pkc.gov.uk](mailto:Planninglrbb@pkc.gov.uk) /

11 September 2020

Dear Ms Simpson,

**Our Client:** Mrs Eileen Thomas, [REDACTED]  
**Subject:** Town & Country Planning (Scotland) Act 1997  
The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013  
**Planning Application:** 20/00288/FLL – Alterations to boundary fence, formation of hardstanding area, erection of storage shed and associated works, King George V Playing Field, Muirs, Kinross  
**Local Review Body:** Objection to Proposed Development (LRB-2020-22)

We refer to the above mentioned matter and to your email notification of 28 August 2020 advising that Kinross Astro SCIO (hereafter, the "**Applicant**") has made an application for review to the Local Review Body (hereafter, the "**LRB**") in respect of the Council's Decision Notice intimating its refusal of planning permission, by way of delegated decision of the Planning Officer, dated 30 May 2020 (the "**Decision Notice**").

On behalf of our client, a full objection to this proposal was submitted on 20 March 2020 (the "**Original Objection**") and is referred to and maintained for its whole terms. In addition, our client wishes to present the following supplementary representations to the LRB, in line with the procedural opportunity to do so and as indicated in your email of 28 August 2020. These points largely summarise and emphasise key issues raised in the Original Objection which we wish to underscore to Councillors in their consideration and review of this matter. We confirm that no new matters have been raised here by our client. On a procedural point however, it does seem questionable that this matter has come before the LRB given the Council's financial interest in this land (and potential removal of maintenance liabilities if the proposal is approved). This observation could not have been raised by our client previously, prior to the Decision Notice.

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On behalf of our client, we submit that **this planning application is contrary to the Development Plan and planning policy and there are no material considerations otherwise justifying its approval.** The approval of this application, as presently framed, would also conflict with the Council's obligations, *inter alia*, under the Nature Conservation (Scotland) Act 2004 (as amended) ("**the 2004 Act**"). **As such, we submit the application for review must likewise be refused.**

#### **Detrimental Impacts on Placemaking**

1. Our client has previously raised concerns about the detrimental impacts on place-making which this development will result in due to its inappropriate scale/layout. Overall, our client notes the Applicant has failed to duly recognise and appreciate the changed appearance of the area in the event that this development proceeds (including, noise etc impacts that will inevitably result from the proposed removal of trees). It is reminded that the trees present within the site boundary are not yet fully mature and are envisaged to have an increasing value over time. They require to be viewed in this context. We submit that the Applicant has adopted an overly simplistic viewpoint from each house and fails to recognise that the trees provide screening at different angles from the parts of the pitch to the left or right of the adjoining residential dwellings. In addition, they provide partial screening for the houses from the rugby clubhouse.
2. We underscore the relevant test within Policy 1; namely, the requirement for the development to provide a positive contribution ("*must contribute positively to the quality of the surrounding built and natural environment*"). The proposal fails to satisfy this criteria.

#### **Biodiversity Impacts and Loss of Mature Trees**

##### **Policy 40A & B (Forestry, Woodland and Trees) and Policy 41 (Biodiversity) – Failure to Provide Requisite Tree Survey**

3. We emphasise that Policy 40A does not deal solely or exclusively with trees with high natural, historical and cultural heritage value. Our client re-emphasises that all trees have an inherent ecosystem value. Again, we underscore that no adequate justification (in terms of the relevant policy) has been made by the Applicant why this proposed loss is "*unavoidable*". That is the policy test that Councillors require to apply in their consideration of this matter.
4. We likewise underscore that the Applicant has not provided a tree survey, as is required by Policy 40B. Our client disagrees with the Planning Officer's stance which determined "*it did not seem reasonable to put the applicant to the expense of a survey*". However, we emphasise that it would be necessary for the LRB to seek such prior to determination if it were minded to uphold the review. We also highlight that such survey has consequently not been subject to review/comment by the 'public concerned'.

##### **Bats Presence – European Protected Species**

5. Our client has lived in this locality for circa 27 years and is familiar with the proposed development site, regularly walking through it. As already submitted, both she and her family have observed Bats – a strictly protected European Protected Species – using the trees within the site boundary. This position has been likewise confirmed by other objectors to these proposals. Moreover, other biodiversity/species have been observed as present, including red squirrels and birds. Yet, as the Planning Officer has noted, no ecology survey has been submitted by the Applicant. Our client disagrees with the position that a survey is not required in this case and we submit that this should

likewise be required by the LRB. Again, we highlight the absence of opportunity for review/comment by the 'public concerned' of any such survey and which has resulted from this approach.

6. Biodiversity policy recognises the need to protect species (protected and non-protected) and for this to be factored also into the planning and design stages. The officer recognises the *"local importance of these trees in providing bird nesting habitats and feeding areas for bats as well as connectivity for species including red squirrel"*. In this respect, we emphasise that **no ecological survey has been carried out by the Applicant**. As such, there can be no confidence in the applicant's position that the *"three trees in question... have no roosting."*
7. We emphasise the need for the precautionary principle to be applied to the consideration of such matters. The decision-making hierarchy in respect of such European Protected Species ("EPS") is one of "avoid-mitigate-compensate". The granting of planning permission in the absence of such required evidence will create hostages to fortune and may give rise to breaches of the obligations deriving from the Habitats Directive. In this regard, we explicitly emphasise the terms of Scottish Planning Policy (SPP) para 214, as well as the letter from the Chief Planner dated 16 May 2006 ("Annex 1"). We emphasise that this matter is not appropriate to be dealt with by way of suspensive condition. Rather, planning authorities **must** fully ascertain, **prior to the determination of the planning application**, whether an EPS is present on a site and what the effect might be of such a species being present on a site. This is essential in terms of the Conservation (Natural Habitats, &c.) Regulations 1994 ("**the 1994 Regulations**"), as well as to ensuring the site does not become practically unable to benefit from any planning permission granted.
8. We reiterate likewise again the obligations incumbent on the Council in terms of section 1 of the 2004 Act in this context.

### **Access**

9. Our client reiterates that Policy 15 (Public Access) is relevant to the determination of this application. It is recognised by the Planning Officer as such in page 3 of the Report of Handling. However, we submit that the Planning Officer places an over reliance on the fact no core path is present. We refer to, and further highlight, the consultation response from the Council's Community Greenspace Officers in this respect, as well as Policy 15 itself.

### **Policy 17 – Residential Area**

10. We submit that the Applicant has misunderstood the Planning Case Officer – it has not been asserted that the playing fields are residential area; rather, that they are zoned as "open space". We underscore that, in our client's submission, the impacts on the neighbouring dwellinghouses here will be marked.

### **Fields in Trust ("FIT")**

11. While our client is disappointed by the stance adopted by FIT, the lack of formal objection to the proposal by FIT is not the same as, and should not be conflated with, supporting the application in wider planning terms. We emphasise that the remit of FIT is far more restricted in its consideration of this matter than that of the Planning Authority – that it does not require the formal approval of the charity. Our client emphasises that, as framed, the proposed development will remove valuable amenity in the form of living green trees and grass space, replacing it with hard surface standing. It will bar members of the public from access to approximately 858 square metres, which will thereafter be restricted to access for hockey players and their supporters (all as detailed in the Original

Objection). Our client strongly disagrees with the statement that “*There is no removal of the “existing buffer”*” – this area is frequently used by local residents and we note that a range of similar objections have been made on this point, which require to be given weight accordingly.

12. Finally, our client highlights that the floodlights have been operating in recent weeks (late August / early September) when the trees are in full leaf. Even when the trees are not in full leaf, we submit that they continue to play a screening role in contrast to the otherwise harsh appearance of the hockey compound etc. (whether within or outwith the hockey season).

## Conclusion

13. In conclusion, our client maintains that for the reasons and on the grounds outlined in the Original Objection, together with the matters highlighted herein, this application is unsympathetically designed, fails to accord with the Development Plan and there are no material considerations otherwise justifying its approval. Moreover, approval of it on the basis of incomplete information about potential species impacts is inconsistent with key planning policy and legal requirements and is liable to result in instances of non-compliance with obligations deriving from the Habitats Directive (as transposed by the 1994 Regulations). In any event, the Council may not approve the application in the absence of such information – in particular, the absent tree and ecology surveys.
14. Overall, we submit that the Applicant has consistently failed to engage with key aspects of the Development Plan and downplayed/dismissed concerns expressed by local residents. **As such, we respectfully urge Councillors to decline the request for review.**

Yours sincerely,



Ms Susan Shaw LLM, LLB (Hons), DipLP, NP  
Managing Partner  
For and on behalf of Living Law

*Strictly without prejudice*

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Enclosed: Chief Planner - 16 May 2006





## SCOTTISH EXECUTIVE

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Your ref:  
Our ref:

16 May 2006

Dear Sir/Madam

### **EC DIRECTIVE 92/43/EEC ON THE CONSERVATION OF NATURAL HABITATS AND OF WILD FLORA AND FAUNA ("THE HABITATS DIRECTIVE")**

### **THE CONSERVATION (NATURAL HABITATS &c) REGULATIONS 1994 ("THE 1994 REGULATIONS")**

### **EUROPEAN PROTECTED SPECIES, DEVELOPMENT SITES AND THE PLANNING SYSTEM: INTERIM GUIDANCE FOR LOCAL AUTHORITIES ON LICENSING ARRANGEMENTS ("THE GUIDANCE")**

It has come to our attention that some planning authorities are attaching suspensive conditions to planning permissions instead of fully ascertaining, prior to the determination of the planning application, whether a European Protected Species (EPS) is present on a site, or what the effect might be of such a species being present on a site. An example of this is a condition requiring that a development should not commence until a survey has been undertaken to determine whether bats, otters etc are present.

This letter is to remind planning authorities of the terms of the above Guidance; for ease of reference here is a link to the Guidance: <http://www.scotland.gov.uk/library3/environment/epsg-00.asp>. The main paragraph that I would draw to your attention is paragraph 29. It states "*it is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either will not impact adversely on any European protected species on the site or that, in its opinion, all three tests necessary for the eventual grant of a Regulation 44 (the 1994 Regulations) licence are likely to be satisfied. To do otherwise would be to risk breaching the requirements of the (Habitats) Directive and Regulation 3(4). It would also present the very real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted, because no Regulation 44 licence would be forthcoming. Such a situation is in the interests of no-one.*" Case law has reinforced the general message that the EPS requirements must be met with the European Commission showing itself willing to pursue Member States where the process is not properly followed.

Accordingly, to ensure that all decisions are compliant with the Habitats Directive and the Regulations and the above mentioned Guidance, planning authorities should fully ascertain whether



protected species are on site and what the implications of this might be before considering whether to approve an application or not.

It should be noted that, if any future applications notified to the Scottish Ministers are found to have such conditions attached, they will be returned to the planning authority to (a) arrange for any necessary survey etc action to be carried out, and (b) reconsider the proposal in the light of the results.

SNH have reminded its staff of the requirements of this Guidance.

Yours faithfully

**JOHN O'BRIEN**

With reference to the above application Kinross Astro Scio (KAS) acknowledge the representations that have been received from interested parties.

Listed below (in no particular order) are our comments on these representations to the Local Review Body.

1. The trees will not increase from their current size as they are pollarded at regular intervals to ensure access for a cherry picker
2. There will be no net environmental loss as, unlike other current developments in Kinross, KAS has stated that KAS will plant an equivalent number along those borders which do have a 6ft wall barrier
3. The facility is available for all of the public to use, as a hockey facility (it is not “owned” by the hockey club, they are just one of many users) in the same way rugby pitches are available for rugby and pools for swimmers etc
4. Why do people feel that they have to walk their dogs along that particular (small) area of ground when just over 100m metres away to the north and east there is all that open space
5. If the public think the footpath is unsafe the council have an obligation to remedy that situation, however, that is not the case. The footpath alongside the road is clear and perfectly fine.



6. Does everyone wish to continue the pre astro situation and the current situation with the rugby pitches, whereby before a game is played the area has to be “visually swept” to clear it off “animal mess”
7. Whilst KAS maintain the area is not “common ground” but sports playing fields, KAS should not be penalised for the fact that sports facilities, especially hockey (but football and rugby too is going the same way) is now played on artificial surfaces. All councils have converted grass pitches to astro.

8. What KAS is attempting to do is improve the facility without council funding to attract more people to take up sport and exercise and increase the lifespan of the surface.
9. Changing the ground covering in the area proposed will not increase noise etc as the area is already used by teams and spectators. It would provide a space more “fit for purpose”. The dug outs would actually reduce player noise by acting as an enclosure/barrier
10. It’s disappointing that there is still lack of clarity over access for neighbours when from the time of first notification over 2 years ago, neighbours were informed in writing they would continue to enjoy unfettered access to that area.
11. KAS would like to draw attention that Mr Rowan’s photographs from his windows are taken from a new and very recent extension that he had built. The location of the pitch not preventing the building of said extension. The pictures taken at the time of full bloom and not how they will look in a very short period of time.
12. The picture below is of the national hockey stadium in Glasgow, used by multiple clubs for their home games:

One metre spectator fence. Higher fence only behind the goal.



13. Apologies for the poor angle but here is the view from the other side. One metre continued all round except behind the goal.





14. Another example, showing spectators behind 1m fence



15. It's hard to explain but the ball, due to direction of play, does not go off the sides, as design of pitches demonstrate !

16. Finally KAS would draw your attention that consultation of the neighbours has been undertaken as the support of Mr McLeod illustrates.

Thank you for the opportunity to add these comments and KAS await notification of when the review will be held.

Kind regards

G Duhre  
On behalf of  
Kinross Astro Scio

