Perth and Kinross Council

<u>Planning & Development Management Committee – 10 April 2019</u> <u>Report of Handling by Interim Development Quality Manager</u> (Report No. 19/103)

PROPOSAL:	Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify condition 15 (cycle and footpath link) of planning permission 08/01123/AMM (Erection of chalets - Reserved Matters)
LOCATION:	Sand And Gravel Pit, Gowrie, Stanley

Ref. No: <u>19/00120/AMM</u> Ward No: P5 - Strathtay

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 and seeks to modify condition 15 of planning permission 08/01123/AMM (Erection of chalets - Reserved Matters) which relates to the provision of a cycle and pedestrian path through the application site as part of a wider proposed new cycle and footpath to link the settlements of Stanley and Luncarty. The wider cycle and pedestrian path between Stanley and Luncarty is being promoted by the Stanley Development Trust. A small part of the wider route, linking Stanley and Luncarty is proposed to travel through the application site and it is that small part of the route which is subject to this application. The 2008 permission, which has been implemented and is therefore live, allows for the erection of 262 chalets and 30 touring caravan stances at the former Gowrie Quarry, Sand and Gravel Pit near Stanley.
- 2 The wider development site relates to an area of land measuring approximately 33 hectares that was previously operated as a sand and gravel quarry. The site is located midway between the village settlements of Luncarty and Stanley and is accessed via the B9099 that runs adjacent to the southern boundary of the site. The majority of the site lies within the former quarry which is largely screened from public views from the south-west, south and south-east by substantial earth bunding.
- 3 The condition on the existing consent relating to the cycle/pedestrian path is worded as follows:

- 4 "The proposed cycle and footpath link illustrated on the approved plans shall be completed to the satisfaction of the Planning Authority prior to the occupation of the development and/or operation of the central leisure facilities.
- 5 Reason In the interests of pedestrian and traffic safety and in the interests of free traffic flow and to encourage the use of sustainable means of transport."
- 6 The associated approved plan shows the cycle path route entering the site on the eastern side of the site adjacent to the burn which runs through the site and travelling along the length of the burn in an east/west direction before leaving the site on the western boundary.
- 7 The applicant is now seeking to amend the route of the cycle and pedestrian path solely within the application site. It is proposed that the cycle path will enter the site on the eastern boundary at a point further south to tie in with what is now considered to be the preferred route of the Stanley Development Trust for the wider cycle path route. The path is then proposed to utilise the approved road network within the application site to travel in a south westerly direction towards the main vehicular access into the wider site. The cycle route will then cross the public road southbound out of the application site and continue along a route towards Luncarty. It should be noted that the finalised route of the wider cycle path outwith the application site will require separate planning permission and that no application for the path has been received to date.
- 8 As such this application seeks to vary Condition 15 of the permission to alter the route of the cycle and pedestrian path solely within the application site to cater for the change in the wider route linking the two settlements which will be subject to a separate planning application.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 9 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 10 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 11 This proposal relates to a Section 42 application to modify condition 15 to facilitate an amendment to the cycle/footpath link through the application site. The wider development as a whole was screened to not be EIA development in 2008 and on that basis I am required to consider whether this new application,

seeking a physical change to the proposal in the form of the revised cycle/footpath route, would require EIA. I am satisfied that the proposal does not fall under Schedule 1 or 2 of the Environmental Impact Assessment (Scotland) Regulations 2017 given that the development as a whole was not previously considered to be EIA development. Therefore an Environmental Impact Assessment Report (EIAR) is not required.

PRE-APPLICATION CONSULTATION

12 The proposal relates to a Section 42 application to vary the terms of a condition associated with a major application. There is no requirement to carry out statutory public consultation as part of the consideration of a Section 42 application.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

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

Scottish Planning Policy 2014

- 15 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
 - The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 16 The following sections of the SPP will be of particular importance in the assessment of this proposal:
 - Sustainability : paragraphs 24 35
 - Placemaking : paragraphs 36 57

Planning Advice Notes

- 17 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
 - PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 75 Planning for Transport

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

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

TAYPlan Strategic Development Plan 2016-2036

- 20 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 21 "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."
- 22 There are no elements of the TAYPIan which are directly relevant to consideration of this application to vary the terms of the condition relating to the provision of the cycle path link through the site.

Perth and Kinross Local Development Plan 2014

- 23 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, "Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth." It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 24 The principal relevant policy is, in summary;

Policy CF2 - Public Access

25 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 26 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 27 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 28 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

SITE HISTORY

- 29 00/00804/MW Amendment of condition two to extend period for extraction by five years to 1 April 2008 at Decision Issued 24 August 2000 Application Approved
- 30 02/01545/MOD Variation of planning permission PK88/647, Condition to extend permission for concrete batching plant until December 2004 at Decision Issued 4 December 2002 Application Approved
- 31 03/01446/FUL Extraction of sand and gravel from Decision Issued 13 January 2004 Application Approved Development Management Committee

- 32 <u>06/00187/OUT</u> Erection of chalet/touring caravan site (indicatively 300 chalets and 20 touring caravan stances) and associated administrative accommodation, indoor and outdoor leisure facilities, access roads and planting/landscaping works (in outline) Decision Issued 14 July 2006 Application Approved – Development Management Committee
- 33 <u>08/00771/AML</u> Erection of indoor leisure and reception facilities (reserved matters) Decision Issued 5 September 2011 Application Approved Development Management Committee
- 34 <u>08/01123/AMM</u> Erection of chalets (Reserved Matters) Decision Issued 5 September 2011 Application Approved – Development Management Committee
- 35 <u>18/00229/FLL</u> Formation of a sales area including the siting of a sales reception building and 6no. holiday accommodation show units for a temporary period, alterations to vehicular access, landscaping and associated works Decision Issued 1 May 2018 Application Refused – Delegated Powers
- 36 <u>18/00365/ADV</u> Display of a sign Decision Issued 17 April 2018 Application Approved – Delegated Powers

CONSULTATIONS

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

External

Perth and Kinross Heritage Trust

38 Condition recommended to ensure archaeological investigation.

Stanley Development Trust

39 No objection to proposal as it forms an integral part of the proposed cycle and pedestrian route between Stanley and Luncarty. Further agreement requires to be reached relating to the width and surfacing of the proposed route.

Internal

Transport Planning

40 No objection

Community Greenspace

41 No objection to proposal as it forms an integral part of the proposed cycle and pedestrian route between Stanley and Luncarty. Further agreement requires to be reached relating to the width and surfacing of the proposed route.

REPRESENTATIONS

- 42 The following points were raised in the one representation received:
 - Further details on the exact routing, width, signage and surfacing of the route require to be provided.
- 43 These issues are addressed in the Appraisal section of the report.

ADDITIONAL STATEMENTS

44

Environment Statement	Not Required
Screening Opinion	Undertaken and no EIA required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Not Required

APPRAISAL

- 45 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary which are also outlined above.
- 46 As, outlined above, there is a live permission on this site for the wider development of 262 chalets and 30 caravans and this application solely relates to the amendment to Condition 15 of that permission in order to alter the route of the cycle and pedestrian path and the timing of delivery within the application site. As this is the only element of the proposal to change the policy assessment of the remainder of the site remains as per the conclusions of the 2008 permission. A brief summary of each element is outlined below.

Cycle Route

47 As part of the ongoing development of the core path network throughout Perth and Kinross the Council, in conjunction with the Perth and Kinross Countryside Trust, has identified the desirability of a cycle path linking Luncarty and Stanley. It will link into the Perth - Luncarty cycle path, and provide a safer commuting route than the B9099. It had initially been proposed that the cycle path would follow the route of the railway line to the north of the site. However, following the submission of the 2008 application an alternative route running through the site was been identified as the preferable route. This cycle/footpath link will be of significant benefit to the proposed development and shall promote the use of sustainable methods of transport.

- 48 The modification to the condition will allow the revised route to be formed through the application site to tie in with the wider proposed cycle/footpath route between Stanley and Luncarty. On that basis a modification to the condition to allow for this is considered to be acceptable and still ensures the link through the application site will occur. As there is no firm agreement or planning consent in place on the finalised wider route of the cycle/footpath it is proposed that a revised condition reflects this but ensures that the applicant still has responsibility for providing and installing the cycle/footpath route through the application site within an appropriate timescale. On that basis the following revised wording is proposed for a new Condition 15:
- ⁴⁹ "Prior to completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site, whichever is the earliest, full details of a cycle/footpath link through the site which shall tie in with the proposed Stanley to Luncarty cycle/pedestrian path shall be submitted to and approved in writing by the Planning Authority. These details shall include a site plan showing the route within the application site, a full specification of the route including its width and surfacing, together with appropriate signage. The details, as approved in writing, shall be implemented as part of the site development and completed prior to the completion of the 30th lodge on site , whichever is the earliest."

Design and Layout

50 The revised cycle and pedestrian link is considered to be appropriate in terms of the wider design and layout of the site and the exact detail on the surfacing and position of the route can be agreed by condition (Condition 15).

Landscape

51 The revised cycle and pedestrian link is not considered to have any detrimental impact on the landscape character of the area.

Residential Amenity

52 The revised cycle and pedestrian link is not considered to have any detrimental impact on the residential amenity of the area.

Roads and Access

53 As outlined above the revised cycle and pedestrian route is considered to be acceptable from a sustainable transport perspective and forms an integral part of the proposed wider Stanley to Luncarty pedestrian and cycle path link.

Drainage and Flooding

54 The revised cycle and pedestrian link is not considered to have any detrimental impact on the site in relation to drainage and flooding. As per the existing consent, the proposed surface water drainage scheme for the site will be secured by condition (Condition 14).

Waste Collection

55 The waste collection provision for the site was agreed as part of the assessment of the previous application and this permission will ensure that the agreed details are adhered to (Condition 16).

Natural Heritage and Biodiversity

56 The impact on natural heritage and biodiversity was considered as part of the previous application and this proposal to amend the terms of the condition relating to the cycle and pedestrian link is not considered to have any further impact on natural heritage or bio diversity interests. In any case the same conditions relating to natural heritage are proposed on this recommendation (Conditions 11 and 12).

Developer Contributions

57 A developer contribution of £56,000 towards the wider Stanley to Luncarty cycle and pedestrian link will be secured through a Section 75 Legal Agreement.

Social and Economic Impact

58 The revision to the condition to amend the cycle and pedestrian route through the site is considered to be of social and economic benefit to the area as it will help to form part of a wider improved cycle and pedestrian route between the settlements of Stanley and Luncarty. Furthermore the proposal will also connect the application site to the wider cycle and pedestrian path and therefore provide improved linkages to the wider community and facilities located within the nearby settlements.

Conditions

59 The remaining elements of the development as outlined above will remain as per the 2008 approval, other than the amendment to Condition 15. As these elements are not changing the policy assessment on the wider site remains the same, as per the conclusions of the 2008 permission. Nevertheless the previously attached planning conditions are required to address the above matters as a new permission is being granted.

LEGAL AGREEMENTS

60 The existing permission was subject to a legal agreement with the previous owner to secure a contribution of £56,000 towards the wider cycle and pedestrian path network between Stanley and Luncarty. In order to secure this contribution going forward the applicant has agreed to enter into a new Section 75 Agreement with the Council under consideration of this application. This will secure provision of the required contribution on a phased basis at £1000 per lodge up to the total £56,000.

DIRECTION BY SCOTTISH MINISTERS

61 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 62 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 63 Accordingly the proposal to amend the condition relating to the position of the pedestrian and cycle path link in the site is recommended for approval.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

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

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

2 The chalets hereby approved shall be used solely for holiday accommodation only and shall not be occupied as the sole or main residence of the occupant.

Reason - To prevent permanent residential use of the site in view of its location within a rural area and in accordance with the Planning Authority's policy of restricting sporadic housing development in the countryside.

3 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification,

including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

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

4 Prior to the occupation of the development the vehicular access to the B9099 public road shall be formed in accordance with specification Type E, Fig 5.8, access detail to the satisfaction of the Council as Planning Authority.

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

5 Prior to the development hereby approved being completed or brought into use, the gradient of the access shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.

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

6 Prior to the occupation of the first lodge full visibility splays of 3m by 180 m shall be provided to the right and left of the access measured between points 1m above the adjacent B9099 road channel level and maintained permanently thereafter to the satisfaction of the Council as Planning Authority.

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

7 Prior to the occupation of the first lodge turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear and shall be maintained permanently thereafter to the satisfaction of the Council as Planning Authority.

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

8 'Pick up and drop off" areas for bus passengers shall be provided on both sides of the B9099 public road adjacent to the access to the development prior to the occupation of the first lodge. The areas shall be a minimum of 6m long by nominally 1.8m wide kerbed and surfaced to the requirements of the Council as Roads Authority to the satisfaction of the Council as Planning Authority. In addition a bus shelter shall be provided on the south side of the road unless otherwise agreed in writing by the Council as Planning Authority.

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

9 Within 6 months of the date of this decision notice a detailed landscaping and planting scheme for the site shall be submitted to and approved in writing by

the Planning Authority. The scheme shall include details of the height and slopes of any mounding or re-contouring of the site, full details of all hard landscaping proposals including materials and installation methods and species, height, size and density of trees and shrubs to be planted. The plans shall also include planting to a depth of 40 metres adjacent to the B9099 and shall also incorporate bunding. The submission shall also include full details of the phasing of the landscaping. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

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

10 The wastewater treatment facility and associated drainage, storage and pumping installations shall be designed, operated and maintained such that noise and or odour therefrom, are not perceptible in any domestic property.

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

11 Tree felling and vegetation clearance shall be undertaken out with the bird breeding season (i.e. not between 1st April and 31st July).

Reason - In the interests of protecting environmental quality and of biodiversity.

12 No work shall take place within the Thistle Brig Site of Special Scientific Interest (SSSI), including the storage of materials or machinery

Reason - In order to safeguard the protected Thistle Brig Site of Special Scientific Interest (SSSI).

13 No chalets or touring caravans are permitted within the south eastern area of the site between the B9099 and the bund which delineates the former quarry until this area has been effectively screened by the landscaping required by Condition 9 of this permission.

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

14 The drainage strategy for the site is not hereby approved. Within 3 months of the date of this decision notice a revised drainage strategy shall be submitted to and approved in writing by the Planning Authority. The revised drainage strategy, as approved in writing, shall be implemented as part of the site development and thereafter maintained to the satisfaction of the Council as Planning Authority. Reason - In order to ensure the provision of an acceptable surface water drainage scheme.

15 Prior to completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site, whichever is the earliest, full details of a cycle/footpath link through the site which shall tie in with the proposed Stanley to Luncarty cycle/pedestrian path shall be submitted to and approved in writing by the Planning Authority. These details shall include a site plan showing the route within the application site, a full specification of the route including its width and surfacing, together with appropriate signage. The details, as approved in writing, shall be implemented as part of the site development and completed prior to the completion of the 30th lodge on site, whichever is the earliest.

Reason - In the interests of pedestrian and traffic safety and to encourage the use of sustainable means of transport and to ensure the provision of an appropriate link through the application site for the Luncarty to Stanley cycle/footpath.

16 The recycling facilities hereby approved shall be installed on site prior to the occupation of the first lodge on site.

Reason - To ensure adequate provision for waste disposal from the site.

17 The cycle parking hereby approved shall be installed on site prior to the occupation of the first lodge on site.

Reason - To ensure the provision of cycle parking on site and to encourage the use of sustainable means of transport.

18 No further development shall take place on site until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason - To ensure the scheme of archaeological investigation is fully undertaken on site.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None

D INFORMATIVES

1 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Background Papers:1 letters of representationContact Officer:John Williamson 01738 475360Date:28 March 2019

ANNE CONDLIFFE INTERIM DEVELOPMENT QUALITY MANAGER

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