

Perth and Kinross Council
Development Management Committee – 19 June 2013
Report of Handling by Development Quality Manager

**Erection of boundary fences and walling (partly in retrospect) at Aldcharmaig
 Strathtummel, Pitlochry, PH16 5NT**

Ref. No: 13/00524/FLL
 Ward No: 4 - Highland

Summary

This report recommends approval of the application for erection of boundary fences and walling (partly in retrospect) as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 Full planning consent is sought for erection of boundary fences and walling (partly in retrospect) at Aldcharmaig Strathtummel, Pitlochry. The property is located on the north side of Loch Tummel with the boundaries extending to approximately 2km along the loch.
- 2 The site has gained a number of planning consents for redevelopment of the property including amongst other things the erection of a new dwelling and ancillary buildings. The fence was originally approved at 1.2 metres in height along the north boundary, however when erected it was done so at 1.8 metres. A retrospective application for this 1.8 metre fence was recently refused as being excessive in height for such a long stretch of road potentially causing a safety hazard to wildlife. Prior to this application being resubmitted, there has been discussion and a site meeting with the Council's Biodiversity Officer.
- 3 The proposal under consideration is to reduce sections of the stock fence to 1.5 metres. The fence will run in sections of 1.8 metres and 1.5 metres in height in addition a 1 metre stone wall runs for a length of 250 metres and there are two site entrances. The fence is set back 1 metre from the road boundary.

NATIONAL POLICY AND GUIDANCE

Scottish Planning Policy 2010 (SPP)

- 4 This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,

- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are:

- Paragraphs 125 - 133 : Landscape and Natural Heritage
- Paragraphs 137 - 138 : National Designations

DEVELOPMENT PLAN

- 5 The Development Plan for the area consists of the Approved Tayplan Strategic Development Plan and the Adopted Highland Area Local Plan 2000. The Council's Proposed Local Development Plan 2012 is a relevant material consideration.

Tayplan: Strategic Development Plan 2012-2032

- 6 The principal relevant policy is in summary:

Policy 3: Managing TAYplan's Assets

- 7 This policy highlights the understanding the scenic value of the TAYplan area thorough safeguarding habitats, species and wildlife corridors, landscapes etc.

Highland Area Local Plan 2000

- 8 The application site is located outwith a settlement boundary and is within the National Scenic Area.

- 9 The principal relevant policies are in summary:

Policy 3 – Landscape

- 10 This policy states that development proposal should seek to conserve landscape features and sense of local identity.

Policy 18 – Designated Landscapes

- 11 The policy states that the council will oppose developments which would have an adverse impact on landscape character and visual amenity of the National Scenic Area.

PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012

- 12 On the 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. It has recently undergone a period of representation; the Proposed Local Development Plan may be modified and will be subject to

examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application, reflecting a more up to date view of the Council.

- 13 The principal relevant policies are in summary:

Policy NE1B – National Designations

- 14 This policy notes that development should only be permitted within a NSA where the council is satisfied that the proposal will not adversely effect the integrity of the area and where any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

Policy NE3 – Biodiversity

- 15 This policy seeks to protect and enhance all wildlife and wildlife habitats. Proposals will not be supported unless evidence can be provided that the ecological impacts can be satisfactorily mitigated.

OTHER POLICIES

- 16 No other policies.

SITE HISTORY

- 17 This site has had a number of previous consents the most recent are the approval of a new dwelling, erection of ancillary buildings and other works ref 11/01871/FLL and the refusal of a 1.8metre high deer fence (in retrospect) ref 11/01872/FLL

CONSULTATIONS

- 18 **Killiecrankie Community Council:**

The community council have objected to the proposal as they do not consider that there is justification for the height and have raised issues related to access laws in Scotland.

- 19 **Scottish Natural Heritage**

Scottish Natural Heritage have not responded to the consultation. Through discussion they have confirmed that they do not comment on small scale developments and refer to the standing guidance on their website.

REPRESENTATIONS

- 20 Seven letters of representation have been received included within this is a letter from the Killiecrankie Community Council referred to above.

- 21 The letters of representation have raised the following issues:
- Non compliance with previous planning approvals (of 1.2m fence) setting a precedent for them not to comply in future.
 - Effect on wildlife
 - Loss of views
 - Loss of right to roam/restriction of access
 - Road safety
- 22 The issues raised above are addressed in the appraisal section of this report apart from the non-compliance with previous planning approvals. The Council has not taken action with regards to the unauthorised development as planning applications have been under consideration to address the breach. On the determination of this planning application either a time limit will be set for the changes to be made or consequently if the application is refused by the committee today the matter will be referred to the Enforcement Team for further action.

ADDITIONAL STATEMENTS

23	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	None submitted
	Report on Impact or Potential Impact	None submitted.

APPRAISAL

Policy

- 24 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. 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. The most relevant policies of the Perth Central Area Local Plan 1997 and Tayplan 2012 are outlined above. The Council's Proposed Local Development Plan 2012 is a relevant material consideration in this instance.
- 25 The fence is constructed of wire mesh supported by timber posts at approximately 2 metre intervals. In assessing whether the proposal complies with the Development Plan, the effect on visual amenity of the area and biodiversity should be considered. Through the appraisal section of this report these issues are addressed and it is considered that the proposal complies with policy and that there are no material considerations that would outweigh the Development Plan.

Visual amenity

- 26 The fence is similar in construction to other fences along this stretch of road albeit this one is higher than the normal 1 metre fence which would be permitted development.
- 27 The fence extends to a distance of approximately 2 km along the property's northern boundary; it is light in form due to the spacing of the wire mesh used. The fence allows views through to the Loch beyond and is visually light in term of its construction and as a result I do not consider that it would be detrimental to the visual amenity of the area.

Biodiversity

- 28 Scottish Natural Heritage (SNH) Guidance on deer fencing addresses the assessment for public funding of deer fencing and is not for providing specific advice on small scale developments. However the information provides a useful basis for assessment.
- 29 The Council's Biodiversity Officer's concern with the existing 1.8 m fence is that it potentially prevents deer from crossing the road and accessing the land beyond causing the deer to be being funnelled along the road. This has been addressed in the current application principally by the proposal now having sections at a reduced height of 1.5 m which will allow Red Deer a level of access to the woodland on the south side of the road.
- 30 Smaller mammals may still find the fence to be a barrier, and it has therefore been recommended that gaps of 100mm high be provided under the bottom of the fence, at intervals of 100m. This it is considered will go some way to providing safe routes to the loch side and can be adequately achieved by means of a condition.
- 31 The Biodiversity Officer notes that ideally, the fence should be located 1.0m back from the road to allow some refuge for animals from the road, but, following a visit to the site with the agent it was clear that due to the topography and vegetation that this was impractical. It is therefore concluded that the solution that has been proposed in this resubmission is a reasonable one.

Access

- 32 There are no public rights of way or core paths within the application site. A gap between the new fence and an existing fence has been left on the east boundary of the site. I acknowledge that prior to the fence being erected access was unrestricted however the issues raised with regards to the right to roam would be a legal issue not related to the granting of planning permission.

Road Safety

- 33 The letters of representation have raised issues related to road safety, in particular wildlife being trapped by the fence and directed onto the road. The

considerations outlined in the SNH guidance (although useful it should be noted is not related to small scale developments) are the characteristics of the road and seasonal patterns of deer cross movement. The hazards on the roads for deer are mostly at low radius bends, blind summits or adjacent to tall ground cover or other restrictions to visibility. Parallel fences close to both sides of a road can also cause issues.

- 34 The fence due to its construction will not affect the visibility for traffic on the road and at the existing access from the property there are low stone walls. The sections of the fence which are proposed to be lowered are at bends in the road where visibility is reduced, the higher sections are retained on straight sections of the property boundary.
- 35 The Councils Transport Planning Section has offered no objection to the proposal.

LEGAL AGREEMENTS

- 36 None required.

DIRECTION BY SCOTTISH MINISTERS

- 37 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 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

- 38 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 to comply with the adopted Highland Area Local Plan 2000 and TAYplan 2012. I have taken account of material considerations, including the Proposed Local Development Plan 2012 and find none that would justify overriding the adopted Development Plan.
- 39 The fence with the reduced in height sections and the gaps to be provided under the bottom of the fence, at intervals of 100m and 100mm high (to be covered by condition) have addressed the initial concerns that the Biodiversity Officer had in relation to the effect on wildlife. I am also satisfied that the fence in terms of the wire mesh and the painted backdrop have a reduced visual impact.
- 40 On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The development as approved shall be completed as per the approved plans within 3 months of the date of this consent.
- 2 Gaps shall be provided under the bottom of the fence, at intervals of 100m and 100mm high within 3 months of the date of this consent to the satisfaction of the Council as Planning Authority.

Reasons:

- 1 To ensure that the plans are implemented within a reasonable timescale.
- 2 To provide safe routes of access to the loch side for smaller mammals.

B JUSTIFICATION

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

C PROCEDURAL NOTES

- 1 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: Seven letters of representation
Contact Officer: Joanne Ferguson
Date: 3 June 2013

Nick Brian
Development Quality Manager

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