

Perth and Kinross Council  
Development Management Committee – 9 October 2013  
Report of Handling by Development Quality Manager

**Erection of replacement football/community pavilion at Donaldson Memorial Park, Church Street, Milnathort**

Ref. No: 13/00814/FLL  
Ward No: 8 – Kinross - Shire

**Summary**

The report recommends approval of the application as the proposal for erection of replacement football/community pavilion is considered to be acceptable and in accordance with the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 The site is located within Donaldson Memorial Park in Milnathort. The main uses adjoining the park are residential with the Milnathort Primary School to the west.
- 2 This application relates to an area of land within the park approximately 1100sq metres. The site is bound by dwellings to the north and the park (including playing fields) to the east, south and west.
- 3 There is an existing hard standing where the previous pavilion stood. The proposal is to erect a single storey building to the east of the site. The building will have two separate changing areas, small kitchen and meeting/hall area. The parking will be laid out to provide 17 spaces to the west of the building retaining the tree existing trees within the site boundary.
- 4 The site has an existing vehicular access from Church Street.

**NATIONAL POLICY AND GUIDANCE****Scottish Planning Policy 2010**

- 5 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.

6 Of relevance to this application are:

- Paragraphs 149-158 Open Space and Physical Activity
- Paragraphs 196-220 Flooding and Drainage

## **DEVELOPMENT PLAN**

7 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Kinross Area Local Plan 2004.

### **TAYplan Strategic Development Plan 2012 – 2032 Approved June 2012**

8 Under the TAYPlan the principal relevant policy is:-

#### **Policy 2: Shaping better quality places**

9 This policy ensures the identification, retention and enhancement of green infrastructure and spaces whilst making the best use of their multiple roles.

### **Kinross Area Local Plan (2004)**

10 The site lies within the settlement boundary Milnathort and is zoned as open space.

11 The principal policies of relevance are in summary:

#### **Policy 1: Sustainable Development**

12 This policy sets guidelines by which all development should be considered in relation to sound principles of sustainable development.

#### **Policy 2: Development Criteria**

13 This policy sets out the criteria by which all developments will be judged. In particular, that the development should be compatible with its surroundings in land use terms and should not result in significant loss of amenity to the local community.

#### **Policy 6: Design and Landscaping**

14 This policy seeks high standards of design for all developments.

#### **Policy 75: Open Space and Recreations**

15 This policy gives encouragement to proposals which would improve areas of public open space.

## PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN (PLDP) 2012

- 16 On 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading to adoption. The Proposed Local Development Plan underwent a period of representation ending in April 2012 and is currently the subject of an examination, but it not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.
- 17 Under the PLDP the site is located within the settlement boundary of Milnathort zoned as open space the principal relevant polices are:-

### **Policy CF1: Open Space Retention and Provision**

- 18 This policy supports Development with areas zoned as open space where it is ancillary to the principal use of the site.

## **SITE HISTORY**

- 19 No site history.

## **CONSULTATIONS**

<b>Flood Prevention Team</b>	Discussion has taken place regarding the proposal and the related flood risk in relation to the recreational use and whilst recommendations are made, no objection is raised.
<b>SEPA</b>	SEPA offer no objection to the proposal and have referred the Council to their standing guidance on small scale developments.
<b>Milnathort Community Council</b>	The community council has made comment on the proposal raising concern over the size and position of the proposal and the access
<b>Environmental Health</b>	Environmental Health offers no objection to the proposal but recommend conditions regarding noise and lighting.
<b>Community Greenspace</b>	Community Greenspace are supportive of the proposal but raise concern regarding the trees on the site of the proposed parking, that a barrier preventing cars from driving onto the grass should be included and that there may be a potential for antisocial behaviour around the building.

## REPRESENTATIONS

- 20 10 letters of representation have been received, including a letter from the community council, raising the following issues:-
- Scale of development/design/location
  - Use of term replacement in application description
  - Access and parking
  - Water supply and drainage connection
  - Damage to trees
  - Waste Storage and collection
  - Clarification of use – function hall
  - Litter
  - Public Nuisance
  - Loss of privacy
  - Devaluation of property
  - Loss of view
  - No exploration of alternatives
  - Light pollution
  - Security
  - Noise
  - Over provision of community facilities
- 21 These issues are all raised in the appraisal section of this report, with the exception of loss of view and devaluation of property which are not material planning considerations.

## ADDITIONAL STATEMENTS

22	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Not required
	Report on Impact or Potential Impact	Not required

## APPRAISAL

### Policy

- 23 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.
- 24 The site is zoned as open space in the Kinross Area Local Plan where Policy 71 applies. This policy supports proposals which would improve these areas.

The football pavilion will be ancillary to the use of the park and provide a community facility which complies with this policy.

- 25 Policy 2 seeks to protect amenity and ensure that developments fit their location, the application site does adjoin a residential area but the use of the proposed building is ancillary to the current use of the land and the building is acceptable in site planning terms.
- 26 In the PDLP as with the existing plan the site is zoned as open space. Policy CF1A: Existing Areas applies in this case, the proposal complies with the policy as the proposed development is ancillary to the principal use of the site as a recreational resource.

### **Replacement Building**

- 27 The proposal has been applied for as a replacement building but it is acknowledged that the previous building that occupied the site was fire damaged and cleared from the site some time ago. The fact that a building occupied this site at one time is a material consideration but as there is no building on the site at present, the proposal is considered in terms of the erection of a new building against the Development Plan and any other material considerations.

### **Scale and Design**

- 28 The building would be single storey in height with a pitched roof to a ridge height of 4.6m. The floor plan is a T shape with the facilities arranged around a central meeting area. The proposed materials are grey concrete roof tiles, drydash render and buff brick basecourse.
- 29 The scale of the development is acceptable in this location in relation to the proximity of neighbouring dwellings and also in relation to the proposed recreational use.

### **Use**

- 30 The building will be used primarily for football training and match changing facilities. The applicant has stated that it will be used by Fossoway Football Club and offered to Milnathort Primary school for this usage. They state that they will also encourage any local groups who the facility is of use to, to take advantage of the building during mornings and afternoons when it is unused.
- 31 The applicant also confirms that there will be no alcoholic beverages consumed in or around the facility and that the use at night will only be for football training and matches. I am satisfied that this type of use would be acceptable in the location and that conditions could be added to minimise the effect on residential amenity

### **Noise and light pollution in effect on residential amenity**

- 32 There are a number of domestic properties in close proximity to the proposed pavilion and whilst I appreciate that noise from the use of the facility has the potential to cause disturbance to nearby residents the site is already used for sports activities. In particular concerns have been raised regarding disturbance from the use of the hall. As detailed above the use is to be limited to football training and matches only in the evenings and when not used for this purpose during the day other activities could be accommodated including children's parties. It is not intended that the building would be used for evening functions.
- 33 Environmental Health have no powers to deal with general noise caused by people attending or participating in sporting events and would normally suggest a condition to limit the hours of use but as the site is already used for sporting activities I feel it would be difficult set a limit for the hours of use. However I consider that the use of the building could be controlled to minimise any impact on neighbours.

### **Littering/Public Nuisance/Security**

- 34 Litter, anti-social behaviour and security have been raised in letters of representation. In my view there is no certainty that the proposed use would give rise to such problems or alter the status quo significantly. However, should this occur, Perth and Kinross Council and other appropriate authorities such as the police have separate statutory duties to investigate any such problems and to take appropriate action to control these issues where they are found to exist.

### **Loss of privacy**

- 35 The area of ground is currently open space and is currently used for sports activities the proposed building is ancillary to this use.
- 36 The proposed building does not have any windows proposed on the north elevation which faces the neighbouring properties. The parking area is to be separated from the rear of residential properties by the existing tree line which is to be retained.

### **Waste storage**

- 37 There has been no area for bin storage or recycling noted on the plans but facilities could be easily accommodated within the site to the required standards.

### **Trees**

- 38 There are no existing trees on the site of the proposed building however there are three existing trees to on the north boundary of the site where 7 parking spaces are shown on the plans. To address this issue, an amended plan has been lodged which shows the retention of the trees in question and a reconfiguration of the parking area. This has the benefit of moving the parking area further away from the residential boundary at the north of the site.

### **Access and parking**

- 39 The site will use the existing vehicular access to Church Street and parking is to be laid out adjacent to the building. Transport Planning have offered no objection to the proposal, as they consider the parking provision to be acceptable for the use and do not recommend any conditions.
- 40 It is important that there is no unauthorised driving on the pitch so a clear definition between the parking area and restricted access to the pitch will be requested by condition
- 41 With regard to the car park the layout has been revised to retain and protect the three existing trees on the north boundary. This had reduced the number of parking spaces proposed by four. In comparison to the existing parking provision on site the area proposed for parking as part of this application is the same. There is no detail on the proposed surfacing which is currently gravelled and dust; the surfacing materials will be required by condition.

### **Economic Benefits**

- 42 The economic benefits which it is considered would arise as a result of this proposal include added value to the local economy in terms of employment through the construction and in providing a community facility in the local area.

### **Sustainability**

- 43 The provision of the recreational facility within the settlement is in accordance with the goals of sustainable development where residents have access to social, economic and community facilities and good access to differing modes of transport.

### **Flooding**

- 44 The site is located within the 1 in 200 year flood map for the Fochty Burn and is at risk of flooding. The Flood Prevention Team has recommended that SEPA is consulted, SEPA have not objected but referred the planning authority to their standing guidance.
- 45 SPP 2010 concedes that some flood risk areas may be suitable for recreation, sport, amenity and nature conservation uses provided that adequate evacuation procedures are in place. In addition it states that 'If built development is permitted, measures to manage flood risk are likely to be required and the loss of flood storage capacity minimised. Water resistant materials and construction should be used where appropriate.'
- 46 The Flood Officer recommends that the developer be made aware the building is located within an area of Flood Risk and is likely to be at risk of flooding in the future in order that they can make an informed decision as to whether to proceed with the development. Other recommendations have been made regarding evacuation procedures etc, but these are covered by Building Standards and do not need to be added as notes.

## **Drainage and Water Supply**

- 47 Scottish Water has no objection to this planning application. Milnathort Waste Water Treatment Works currently has capacity to service this proposed development.
- 48 The assessment is made based on the information available at this time and does not guarantee a connection to Scottish Water's infrastructure. A separate application will be required for connection to the infrastructure after full planning has been granted.

## **LEGAL AGREEMENTS**

- 49 No legal agreement required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 50 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**

- 51 The proposal complies with the KALP and the PLDP as the proposal involves development in an area zoned as open space which is ancillary to its use. The proposed building in terms of location, design and materials is acceptable and the access and parking arrangements are acceptable to Transport Planning. The issues raised in the letters of representation have been considered and addressed with conditions added to protect residential amenity.
- 52 The proposal complies with the Development Plan and there are no material considerations that would outweigh the Development Plan in this instance.

## **RECOMMENDATION**

- A** Approve the application subject to the following conditions:

### **Conditions:-**

1. The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
2. The soundproofing of the premises and the control of all amplified sound, including music and speech, being such that no amplified sound is audible in nearby residences or commercial premises.
3. All fixed plant and machinery to be installed or operated in connection with the granting of this permission shall be so enclosed, attenuated, operated and maintained such that noise therefrom shall not exceed International Standards



Organisation (ISO) Noise Rating 35 between 0700 and 2300 hours, or Noise Rating 25 between 2300 and 0700 hours, within any neighbouring residential premises with windows slightly open, when measured, calculated or a combination of both and plotted on an ISO rating curve chart.

4. All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.
- 5 Details of the a boundary treatment to prohibit the egress of cars onto the playfield shall be submitted for the approval of the Planning Authority prior to the commencement of the development and such scheme as may be approved shall be completed prior to the use of the development.
- 6 Details of the parking and access surface shall be submitted for the approval of the Planning Authority prior to the commencement of the development and such scheme as may bet approved shall be completed prior to the use of the development.
- 7 All existing trees on the site shall be retained and protected during construction. Prior to the commencement of development details of trees to be retained and the comprehensive approach to their protection in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction" shall be submitted for the written approval of the Council as Planning Authority. The approved Tree Protection measures shall not be removed, breached or altered without prior written authorisation from the local planning authority but shall remain in a functional condition throughout the entire development.

**Reasons:**

1. To ensure that the development is carried out in accordance with the plans approved.
- 2-4 In order to safeguard the residential amenity of the area.
- 5-6 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 7 To protect the existing trees on the site.

**B JUSTIFICATION**

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

**C PROCEDURAL NOTES**

None.

## D INFORMATIVES

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. The applicant should be aware that the site is located within a flood risk area and it is likely to be at risk of flooding in the future.

Background Papers: 12 letters of representation

Contact Officer: Joanne Ferguson – Ext 75320

Date: 17 September 2013

**Nick Brian**  
**Development Quality Manager**

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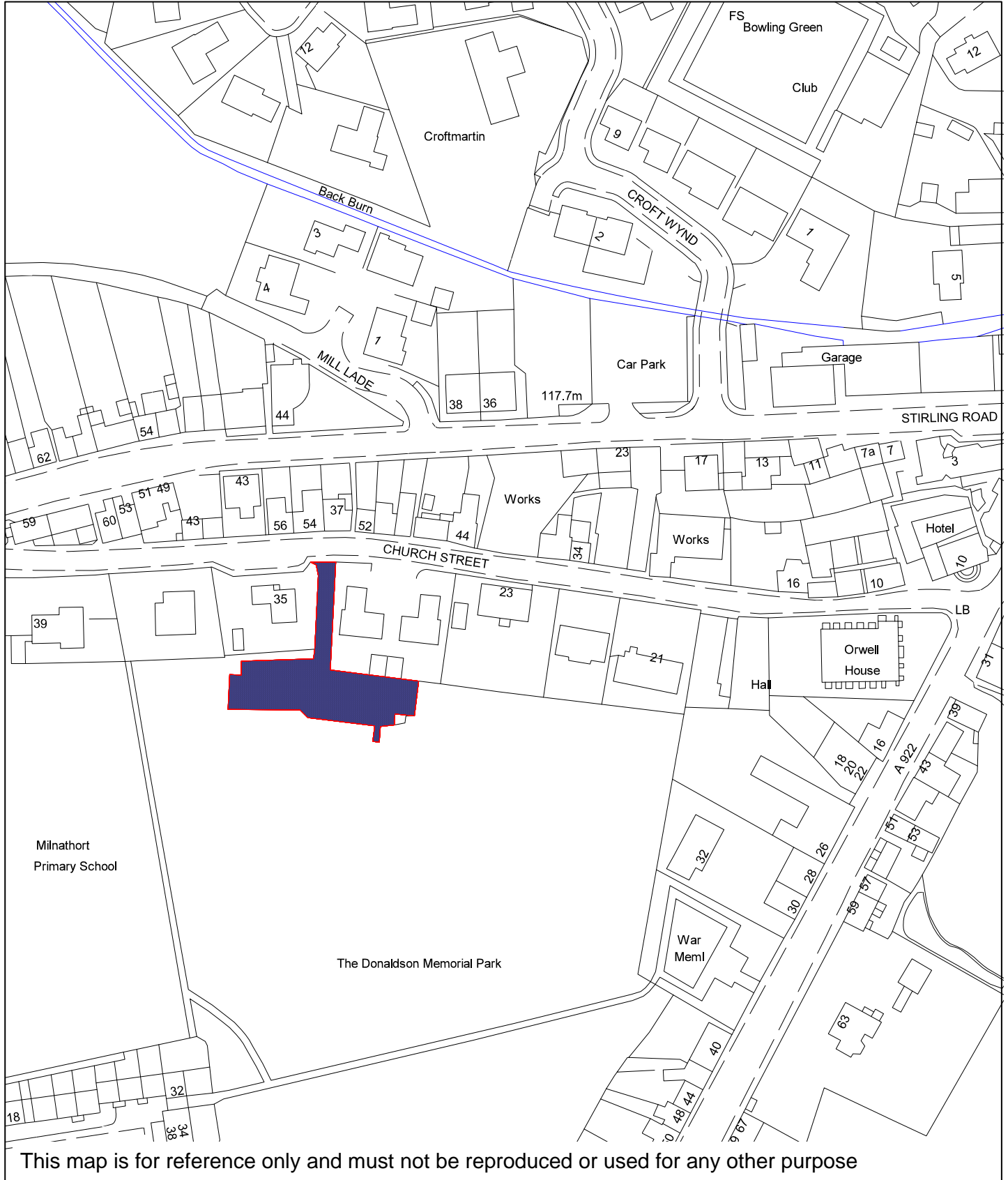
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# Perth & Kinross Council

## 13/00814/FLL

### Donaldson Memorial Park, Church Street, Milnathort

#### Erection of replacement football/community pavillion



↑ Scale  
1:1500

