

Perth and Kinross Council
Development Management Committee – 19 February 2014
Report of Handling by Development Quality Manager

Temporary change of use for one year to Class 11 (Assembly and Leisure) for the purpose of holding a music festival in 2014 at Balado Park, Milnathort

Ref No: 13/02107/FLM
Ward No: 8 – Kinross-shire

Summary

This application seeks a temporary change of use of land to Class 11 use (Assembly and Leisure) from agriculture, for a one year period, to enable a single music festival to be held in 2014.

The proposal is largely in line with the Development Plan and other Council strategies and offers significant economic benefits to the area. However, the Health and Safety Executive advise against development on the grounds of risk to public safety due to a hazardous pipeline which runs through part of the site.

This report recommends conditional approval subject to a legal agreement forming part of any consent. A proportionate approach to the assessment of risk has been adopted by officers. A progressive reduction in risk at the site may be recognised through measures aimed at minimising population exposure to potential pipeline hazards, changed layout and the limited duration of the permission sought.

BACKGROUND AND DESCRIPTION

- 1 The land subject of this application runs to approximately 371ha and is approximately 0.5km west of Milnathort and Kinross. The land predominantly lies between the A977 (south) the A91 (north), is bordered to the east by the M90 motorway and to the west by the South Queich watercourse and the B918. The application site encompasses at its centre Balado Park Activity Centre, an authorised assembly and leisure use. The remaining land within the application site boundary is presently used for agricultural purposes.
- 2 Historically the application site has been used for the annual staging of a large scale music festival (T in the Park), with associated ancillary activities.
- 3 A 'major hazard' pipeline runs through the application site. This is the BP pressurised oil pipeline which carries un-stabilised crude oil from the Forties Field in the North Sea to the Kinneill processing plant near Grangemouth.
- 4 Members will recall that, after referral to Scottish Government, a conditional planning permission for the Balado Park Activity Centre was granted on 15 June 2011 (09/01289/FLM) authorising the permanent change of use of the 42ha of land to Class 11 (Assembly and Leisure use). A condition of that permission was that the major music festival which had been held at Balado utilising land which made up the Balado Park Activity Centre should not

continue after 2011(Condition 2). The condition was imposed to provide clarity to the permission and as a result of the safety issues associated with a large population in such close proximity to the oil pipeline. Previously that site had operated under a succession of temporary planning approvals. Members will also note that a further planning consent (12/00078/FLM) for a 371ha site with the same boundaries as the application under consideration today was granted in 2012 for the temporary change of use of the site for the purposes of holding a music festival once in 2012 and once in 2013.

- 5 The music festival has operated from Balado since 1997 utilising both the site at Balado Park Activity Centre and surrounding agricultural land under a series of planning consents and the rights afforded under the Town and Country Planning General Permitted Development Order.
- 6 In terms of its scale and the amount of land utilised, the music festival has grown over time. The event is now held over 3 days and incorporates a significant proportion of camping and car parking.
- 7 This new planning application seeks planning permission for a further year for the wider site of the music festival and for a fixed period of one year only. Inherent within the application is the use of land within the application site and surrounding the arena area for ancillary camping and car parking.
- 8 The site is in open countryside, and is located close to Loch Leven (a designated SPA, Ramsar site and SSSI) and lies within the Loch Leven Drainage Catchment Area.
- 9 The application is fully detailed and is accompanied by a comprehensive supporting statement. This statement confirms the applicant's intention to remove an area of land in excess of 4.4ha from agricultural production for a period of one calendar year to deliver sufficient phosphorus mitigation to satisfy planning policy within the Loch Leven Catchment Area.

HIERARCHY OF APPLICATIONS

- 10 Due to the size of the application site, which is over 2 hectares, this proposal is classed as a Major Application as defined by the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The applicant has carried out a pre-application public consultation exercise under those Regulations and a report reviewing that process accompanies the application.

ENVIRONMENTAL IMPACT ASSESSMENT

- 11 The proposal constitutes a Schedule 2 development (12(d) Tourism & Leisure Developments) under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. The thresholds in that Schedule are exceeded by the proposal. As a consequence an assessment of the project's likely significant environmental effects in this location is required to be made.

- 12 The proposal has now been screened under those Regulations to determine whether any likely significant environmental effects arising from this development in this location would require examination through Environmental Impact Assessment (EIA).
- 13 To assist this screening process the comprehensive supporting statement sets out in detail the practices which have evolved over time in relation to protection of the water environment and management of the event in close proximity to a hazardous pipeline. The experience of a 15 year history of operation in this sensitive location has been highlighted. As a consequence, many of the likely significant effects are known, can be reasonably predicted, uncertainty has been removed and consultees have been able to be satisfied with the control measures which have been advocated.
- 14 Accordingly it is concluded that the development is not EIA development under the Town and Country Planning EIA (Scotland) Regulations 2011.

NATIONAL POLICY AND GUIDANCE

The Scottish Planning Policy 2010

- 15 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.
- 16 Of relevance to this application are:
- Paragraphs 3: Purpose of Planning
 - Paragraph 25: Determining planning application
 - Paragraph 33: Sustainable economic growth:
 - Paragraph 45: Economic Development;
 - Paragraphs 134 – 138: International and National designations: &
 - Paragraphs 257: Outcomes

PAN 51 Planning, Environmental Protection and Regulation 2006

- 17 The purpose of the PAN is to support the existing policy on the role of the planning system in relation to the environmental protection regimes.
- 18 Of relevance to this application are:

- Paragraph 12: The European Dimension (Seveso II Directive in respect of Major Accident Hazards)
- Paragraph 26 : The Habitats Regulations
- Paragraphs 30-31 : The Control of Major Accident Hazard Regulations
- Paragraphs 37 - 44 : Development Management
- Paragraphs 49 -52: Material Considerations
- Paragraphs 64-65: Noise and Noise nuisance

PAN 1 / 2011 Planning and Noise

- 19 The purpose of the PAN and its accompanying Technical Advice Note is to provide guidance on how noise should be considered in the development management process to prevent and limit the adverse effects of noise without prejudicing sustainable economic growth.
- 20 Of relevance to this application are:
- Paragraphs 2 - 6: general principles
 - Paragraphs 14 -18: Considering noise in development management
 - Paragraph 19 - 21: Noise impact assessment and mitigation
 - Paragraphs 33 - 34: Noise from potentially noisy developments
 - Technical Advice Note : Chapter 4 : Mitigation
 - Technical Advice Note: Factors to consider in assessing noise impacts

Circular 5/93 Planning Controls for Hazardous Substances: Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993

- 21 The Circular sets out Government guidance in relation to the inter-relationship with statutory controls affecting hazardous installations and proposed developments around them. The following guidance is presented in relation to the role of HSE:
- 22 Paragraph 15 advises that 'In view of HSE's acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from HSE that planning permission should be refused for development for, at or near to a hazardous installation, or that hazardous substance consent should be refused, should not be overridden without the most careful consideration.'
- 23 Annex B, para 14, identifies key principals upon which HSE's advice to Planning Authorities is based:
- 'the risk considered is the *residual risk* which remains after all reasonably practicable preventive measures have been taken';
 - 'account is taken of the size and nature of the proposed development, the inherent vulnerability of the exposed population and the ease of evacuation';
 - 'the risk of serious injury, including that of fatality, attaching particular weight to the risk where a proposed development might result in a large number of casualties in the event of an accident.'

- 24 Paragraph 26 goes on to identify that: ‘particular regard should be had to developments where people may be unfamiliar with their surroundings; and leisure and recreational developments which may result in a large number of people congregating in one place. HSE risk assessment procedures will attach more weight to consequences where a hazard has attributes which makes it likely that it will give rise to societal concerns’.

DEVELOPMENT PLAN

- 25 The Development Plan for the area comprises the Tayplan 2012 and the Local Development Plan 2014.

TAYPLAN 2012

- 26 The principal relevant policies are in summary:

Policy 2: Shaping Better Quality Places

- 27 Seeking to shape better quality places through requiring new development to be fit for place, supporting more sustainable ways of life for people and businesses.

Policy 3: Managing Tayplan’s Assets

- 28 Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through:
ensuring development likely to have a significant effect on a designated or proposed Natura 2000 sites (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation requires to be identified where necessary to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with Scottish Planning Policy;
-and safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets;

- 29 **Policy 6: Energy and Waste/Resource Management Infrastructure**

To deliver a low/zero carbon future and contribute to meeting Scottish Government energy and waste targets.

PERTH AND KINROSS LOCAL DEVELOPMENT PLAN (2014)

- 30 ED3 Rural Business and Diversification

Favourable consideration will be given to the expansion of existing businesses and the creation of new businesses within or adjacent to existing settlements

in rural areas. Outwith settlements, proposals may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity.

31 TA1B Transportation Standards

Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

32 NE1A International Nature Conservation Sites

Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

33 NE1B National Designations

Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

34 NE1D European Protected Species

Planning permission will not be granted which would have an adverse impact on European protected species.

35 NE3 Biodiversity

All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

36 EP2 New Development and Flooding

There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

37 EP4 Health and Safety consultation zones

Full account will be taken of advice from the Health and Safety Executive in determining planning applications for development within the consultation zones identified on the proposals and inset maps.

38 EP7 A, B & C Loch Leven Drainage Policies

EP7A

Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment.

EP7B

Developments within the Loch Leven catchment area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

EP7C

Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

39 EP8 Noise Pollution

There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

40 EP12 Contaminated Land

The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

41 The proposal is broadly consistent with the objectives of the policies set out above.

OTHER POLICIES

Loch Leven Management Plan 1999

42 The Loch Leven Catchment Management Plan's ultimate goal is the long-term ecological recovery of the loch, through the sustainable management of the catchment's resources. The underlying principle behind this is the reduction of the phosphorus load entering Loch Leven. By lowering the phosphorus available to the algae this will crucially reduce the frequency, duration and impact of the algal blooms thereby improving water quality. Three "water quality standards" have been set: water clarity, chlorophyll concentrations and total phosphorus concentrations.

Loch Leven Catchment: Advice to planning applicants for phosphorus and foul drainage 2010

- 43 Sets out the need for new development proposals to deliver appropriate phosphorus mitigation within the Loch Leven Catchment Area.

CONSULTATIONS

- 44 **Transport Scotland** – Do not propose to advise against proposal.
- 45 **HSE** – Advise Against: Risk of harm to people at the proposed development is such that it advises, on safety grounds, against the grant of planning permission but in the circumstances HSE would not invite Scottish Ministers to call in the 2014 application should the Council resolve against its advice. HSE is of the view that it cannot support a further application for 2015 for large scale events within the pipeline consultation zone at Balado Park.
- 46 **Scottish Water** – No objections. Confirms that there are no public sewers in the vicinity and that capacity exists to serve the development at Glendevon Water Treatment Works.
- 47 **SEPA** – No objections. Is satisfied that the water course protection measures, phosphorous mitigation proposals and arrangements for the handling of foul waste and chemical/oils storage measures represent good practice. Conditions necessary to deliver. Also strongly recommend that camper vans are relocated outwith a 1:200 year flood area of the North Queich.
- 48 **SNH** –Objection unless: phosphorous mitigation measures are secured through a Legal Agreement; conditions to maintain buffer strip around watercourses and the production of a pollution control plan; all to prevent any likely significant effects on Loch Leven SPA, Ramsar site and SSSI.
- 49 **Police Scotland** – No comments.
- 50 **Scottish Fire and Rescue Service** – No comments.
- 51 **BP** – No objection: advise that applicant liaises with BP Wayleave Office to ensure the safe management of pipeline apparatus before, during and after the event.
- 52 **PKC Environmental Health** – No objections as their issues relating to noise; hours of operation; pipeline protection are controlled through other mechanisms outwith planning.
- 53 **Kinross Community Council** – No comments.
- 54 **Milnathort Community Council** – No comments.

REPRESENTATIONS

- 55 No letters of representation have been received.

ADDITIONAL STATEMENTS RECEIVED

56	Environmental Statement:	Not required
	Screening Opinion:	Completed
	Environmental Impact Assessment:	Not required
	Appropriate Assessment:	Required and on file
	Design Statement or Access Statement	Submitted
	Report on Impact or Potential Impact:	Ecology appraisal of site

APPRAISAL OF CURRENT APPLICATION

- 57 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.

DEVELOPMENT PLAN POLICY

- 58 The Development Plan would provide support in principle to a large scale festival event in this location as a sustainable economic and tourism development proposal, provided that specific planning issues are satisfied and meet the detailed requirements of relevant planning policy.
- 59 Those planning issues would include the appropriateness of the proposed use, access, landscape impact, drainage and habitat effects, noise, effects on local amenity, and pipeline hazard. In addition other material considerations which also fall to be considered in this case and weighed in the balance with the provisions of the Development Plan and detailed planning issues include planning history; economic benefits, and any representations received. Those issues will be examined followed by an appraisal of the detailed planning issues.
- 60 The determining issue in this case is whether any of those planning and other material considerations, would outweigh the Development Plan's support for a sustainable economic and tourism development proposal in this location for a single year only.

PLANNING HISTORY

- 61 The recent planning application for Balado Park (09/01289/FLM) sought to make permanent activities which had been carried on from the site under a temporary consent since 1998, and also intensify activities at the site. Amongst

those activities was the use of the land in connection with the T in the Park music festival. Through its planning consultation role HSE registered concern about the suitability of this use so close to a major hazard pipeline.

- 62 The 2009 application highlighted, in public safety terms, the incompatibility of that site for a large scale music festival. HSE advised against the issue of a permanent, intensified, planning approval.
- 63 Notwithstanding that HSE advice, this Council resolved to approve the application and as a consequence the recommendation was referred to Scottish Government for clearance. In response Scottish Government directed that an approval be granted subject to conditions, one of which determined that the major music festival should not continue after 2011.
- 64 Since the issue of that planning permission the festival organiser has explored with HSE and Perth & Kinross Council practical measures which might have the effect of reducing and removing risks associated with the pipeline. The planning approved in 2012 arose out of that process and responded to many of the concerns of HSE. Those changes have also been embraced by this application for a further temporary permission on the site.

LAND USE PLANNING AND ENVIRONMENTAL ISSUES

- 65 Since 1998, the T in the Park music festival has become a permanent annual fixture at the site, has more than doubled in population size and area, and increased from a 2 day to 3 day festival with a shift to a more resident based event than a day visit destination. The event now attracts an audience population to the site of 85,000+ with 7,500 staff. In the weeks either side of the event itself activity levels at Balado Park involve commissioning and de-commissioning works (site assembly, service installation, stage construction/de-construction, litter picking etc). The event now has an international profile with full media exposure; has assumed cultural significance over time as a national Scottish festival and has run continuously for 15 years.
- 66 The event itself is subject to a Public Entertainments licence (PEL) issued by Perth & Kinross Council. For the 2012 event a change to the Licence was agreed by the Council increasing the number of available day tickets. In 2011 the capacity of the event for the Friday of the festival was set by the PEL at 75,000 persons with 5,000 of that number made up of day tickets. The approved increase now brings the overall capacity on Friday in line with the capacity on Saturday and Sunday to 85,000 persons. Overall the camp site numbers of 70,000 remain unchanged.
- 67 The continuation of the use of land as a festival site does raise specific planning and environmental issues in this location, namely public safety, landscape impacts, amenity; water environment, ecology, and transportation.

These will now be examined:

Public Safety:

- 68 A major hazard pipeline runs through the application site. The line is managed by BP and carries unstabilised crude oil with up to 20% natural gas liquids.
- 69 The management of pipeline safety is governed by the Pipelines Safety Regulations 1996 (PSR). These Regulations encompass a risk-based approach to safety and require pipeline operators to design, build and operate pipelines to ensure that they are safe, so far as is reasonably practicable (SFAIRP). The overall aim is to ensure that the pipelines are designed and constructed properly and operated safely.
- 70 Under the PSR, owners of the pipeline are also obliged to prepare a *Major Accident Prevention Document (MAPD)*, a management tool to ensure the operator has assessed risks from a major accident and has introduced procedures to control those risks.
- 71 The principal conclusion from the MAPD for the BP pipeline is that internal and external corrosion, accidental interference, mechanical survey operations and construction defects create the highest risks to the pipeline itself and these are the subject of operator procedural controls.
- 72 The pipeline operator (BP) raises no objection to the proposals but advises that should a planning approval be forthcoming, the developer should, at construction/assembly stage of any event, liaise closely with the BP Wayleave Office to ensure the safe management of the pipeline apparatus before, during and after any festival event.

HSE consultation:

- 73 The risk to people associated with the introduction of a Class 11 use close to the pipeline is a material planning consideration, and Planning Authorities are obliged to consult HSE on any proposals within defined Consultation Zones.
- 74 The pipeline has an overall HSE consultation distance (CD) of 435m and parts of the planning application site fall within this area. The consultation distance is broken down into 3 zones, inner (0-110m), middle (110-380m), and outer (380-435m) either side of the pipeline.
- 75 HSE's role in the land use planning system is to provide authorities with advice on the nature and severity of risk to people in the surrounding area presented by major hazards. Advice on risk can then be given due weight when making planning decisions and balanced against other relevant planning considerations. In this way opportunity is available to influence population growth near sites which constitute a major hazard and so mitigate consequences should a major accident occur.
- 76 HSE advice to Planning Authorities in respect of development proposals in the vicinity of hazardous installations is based on general principles which include:
- i) where it is beneficial to do so, HSE's advice takes accounts of risk as

well as hazard, that is, the likelihood of an accident as well as its consequences;

- ii) account is taken of the size and nature of the proposed development, the inherent vulnerability of the exposed population and the ease of evacuation or other emergency procedures. Some categories of development (eg schools and hospitals) are regarded as more sensitive than others (eg light industrial). HSE weight their advice accordingly, enabling them to advise Planning Authorities on the graduation of land use around major hazards; and
- iii) HSE consider the risk of serious injury, including that of fatality, attaching particular weight to the risk where proposed development might result in a large number of casualties in the event of an accident.

77 HSE identify two 'risks': how often an accident is likely to take place and the likelihood of a person receiving a dangerous dose of thermal radiation from a pipeline 'accident', ie, probability and impact. The risk of receiving a dangerous dose decreases with distance from the pipeline until the risk to the person could be considered negligible. Particular regard is given to developments where people may be unfamiliar with their surroundings and leisure and recreational developments which may result in a large number of people congregating in one place.

78 It is important to note that HSE's role in the land use planning system is advisory only. It has no power to refuse consent or a planning application. It is the responsibility of the Planning Authority to make the decision, weighing local needs and benefits and other planning considerations alongside HSE advice.

79 Planning Authorities may be minded on occasion to grant permission against HSE's advice. In such cases HSE will not pursue the matter further with the Planning Authority as long as the Council understands and has considered the reasons for its advice. However, if the Planning Authority is minded to grant permission they do have to notify the Scottish Ministers for clearance.

PADHI+ Assessment

80 For this planning application an HSE consultation using its planning advice software tool (PADHI+) has been carried out. This process is a computer modelled risk assessment based on information entered in response to specific questions raised by the computer programme. A scale of sensitivity is used to define the vulnerability of a development population to major accident hazards. It is based on pragmatic criteria; the type of development, use of land and numbers of vulnerable people likely to be present and exposed to risk. The scale ascends from Level 1 to Level 4: the more vulnerable the population, the higher the sensitivity level.

81 The PADHI+ consultation returns an automated response of Advise Against due to the numbers of people likely to be present in the outer and middle

consultation zones. With the proposal the risk of harm to people at the application site is considered to be high (sensitivity level 4). Although the submitted layout provides for parking only to occur in the inner zone, up to 8,000 people could be present in the middle zone and up to 5,000 people in the outer zone.

HSE Supplementary Letter

- 82 In this case, similar to the consent granted in 2012, HSE have augmented their automated consultation response with a supplementary letter. The effects of a pipeline failure event are fully explained. HSE is of the view that the proposed development raises safety issues of substantial concern and continue to advise the Council against the development.
- 83 However HSE do recognise that this application seeks consent for a limited period of one year only and that this application has been submitted as the applicant seeks to relocate the event beyond the consultation zones around the pipeline. Accordingly, and similar to the 2012 consent they do offer broad support to the principle of a temporary planning consent for an additional year to facilitate relocation of the event, and provided that progressive and proportionate risk reduction measures are embodied in any new planning approval. These interim risk reduction measures formed part of the conditions for the 2012 consent and are intended to be in place should any consent be granted for this application.
- 84 The conditions on the 2012 consent identified risk reduction measures which were implemented during the 2012 and 2013 events. These have resulted in changes from previous years to the arena layout and camping areas.

Similar to the 2012 consent these conditions could:

- Limit the duration of any permission to 1 year only;
 - Limit population levels within the pipeline consultation zones during the event;
 - Limit the centre of the area set aside for the audience to the main stage to no less than 475m from the pipeline and to prevent the attendant crowd from being any nearer than 380m to the pipeline;
 - Limit vehicle parking only to the inner consultation zone;
 - To direct camping beyond the middle consultation zone;
 - Provide a protected pipeline way-leave through the site;
 - Prevent storage of combustible materials or the lighting of fires within the way-leave area;
 - Deliver reinforced pipeline crossing points; and
 - Deliver an Emergency Response Plan for the festival site.
- 85 HSE are able to recognise that these measures, together with a further one year consent and a commitment to relocate, illustrate a progressive reduction of risk since the event first moved to the site. The measures set out above could be delivered by condition on any new planning permission, similar to those which were applied to the 2012 consent.

- 86 To this end and with the reassurances that have been given at pre-application stage by all parties that events on this site will cease after 2014 and that this is the final year being sought on site, HSE confirm that although they Advise Against the development, they would not invite Scottish Ministers to call-in the application should a recommendation for planning approval on the basis set out above, be referred to Scottish Government for clearance.
- 87 It has been made clear by the applicant that they are seeking an alternative site outwith the pipeline consultation zones but unfortunately they have not been able to secure a site to host the event in 2014 at this time, hence the submission of this further application.
- 88 It should be clear to Members that HSE are not merely agreeing to a further year's planning consent with the potential for re-visiting through a new planning application at the end of that temporary period. HSE's position is that because of the proximity to the pipeline, this site is not suitable as a location for an event of this nature and scale. However, the commitments and conditions above offer a progressive reduction of risk to users of the site. Furthermore a temporary consent for a single year offers a pragmatic response and a suitable timeframe within which the logistics of completing and securing and readying any necessary consents for another site.

Environmental Health and Safety

- 89 Perth & Kinross Council has an enforcing responsibility for Health and Safety in relation to site management during a Licensed Event such as T in the Park. To further assist Members the comments of the Council's Environmental Health Manager has been sought in relation to this role.
- 90 The Council's health and safety remit does not extend to any health and safety enforcement in respect of the major oil pipeline traversing the site (this rests with the Health and Safety Executive). However, over the years the Council's Health and Safety enforcement officers and the licence holder, have, in conjunction with others, worked together to ensure that health and safety aspects of any improvements or changes have been considered as part of the event planning process. A 'Safety, Health & Wellbeing Management Plan' is prepared by the festival operator ahead of any event and the Environmental Health Officer inputs to that process. That report acknowledges the importance of pipeline management and includes pipeline protection measures.
- 91 The pipeline protection mitigation measures of 6m wayleave; prevention of structures/point loads being sited over it, avoidance of flammable substances stored over or close to pipeline and the arrangements of low population uses in the area of the pipe, have evolved over time as part of that process and are able to be managed at the event by the Council in its Health and Safety role.
- 92 The Environmental Health Officer confirms that in the last 15 years of staging the T in the Park event there have been no observed instances where

operation of the site would have put the integrity of the pipeline in doubt and no enforcement action has been necessary.

Conclusion

- 93 The frequency of the pipeline failing may not be significantly increased by the presence of 85,000 people, providing their access to the pipeline strip is controlled. However, it is the presence of members of the public at close proximity to the pipeline that creates the risk of a person being harmed.
- 94 HSE confirm that they are broadly supportive of the principle of a temporary permission for a finite time to facilitate the completion of the search for an alternative site outwith the consultation zones. They have indicated that they have concern that a further application for a year has been submitted and sought sufficient insurance from Scottish Government of a permanent end to the granting of permission for large scale events within the pipeline consultation zone at Balado Park. They have also made it clear that they could not support a further application in 2015 for a large scale event within the pipeline consultation zone at Balado Park.

Nevertheless, a temporary permission with uncertainty removed about future events at this site would result in a finite time over which any harm could accumulate. Furthermore HSE conclude that the current submission when taken together with limiting planning conditions would achieve progressive and proportionate reduction of risk at this site. As a consequence HSE confirm that they would not invite Scottish Ministers to 'Call in' the application should the Council resolve, against its advice, to approve the application subject to these conditions.

- 95 Officers are satisfied that, with the inclusion of the conditions detailed in the HSE supplementary letter, together with the experience of site assessment, managing and monitoring of the pipeline at the site (this conducted by pipeline operator, landowner, events organiser and Council observing staff), that the proposal would secure an acceptable balance between public safety, risk management, and facilitating an important business and cultural event.

Landscape Impact:

- 96 The application site forms part of a low lying area framed to the south and north by low hills. The Kinross Landscape Character Assessment defines the area generally as the Loch Leven Basin and characterises this part of the basin as flat land, predominantly arable with some permanent pasture and substantial areas of grass leys. The site is prominent on two main road corridors and visible from a wide area of surrounding land.
- 97 Whilst the Landscape Character Assessment identifies opportunities for enhancement through the removal of incongruous areas of hard surfacing which exist within the application site, the proposal now submitted is for a use of land only and not any permanent works of operational development.

- 98 The experience of the T in the Park event has been to introduce a scale of development which does not rest comfortably in this rural landscape in terms of its form, colour, nature and scale. Post event, the impacts of litter in particular is a significant visual issue.
- 99 However, it may be recognised that event structures (marquees, tents, stages) and the nature of festival activity (noise and light shows etc) whilst visible and apparent across a wide area, are all transient and temporary in nature and as a consequence, would not result in any permanent harm to the character and experience of the landscape. Accordingly, having regard to the limited duration of the event, and the limited terms of the planning application (1 event in 2014) it is not considered that any visual harm to landscape would be such as to justify planning refusal on landscape grounds.
- 100 The effects of light disruption are primarily linked to artist performances which are restricted by operating hour limits on the Public Entertainments Licence (PEL).
- 101 Accordingly, it is considered that significant visual and amenity effects from festival activity could be mitigated in the following way:
- Dismantling condition - two weeks post event
 - Waste collection condition - to be completed two weeks post event

Amenity

Noise:

- 102 The noise associated with the music event is subject to PKC Entertainment Licence controls (PEL). A Noise Management Plan forms a key part of the PEL. The following requirements are prescribed in that document:
- Noise levels in the arena are managed in accordance with the Code of Practice on Environmental Noise Control at Concerts;
 - The noise levels from musical entertainment on the campsite are controlled to minimise the risk of nuisance at any off-site premises;
 - Peak sound pressure in any public area of the site shall not exceed 137dba
 - Any instruction from the Environmental Health Manager or his representative to reduce noise level is carried out appropriately and timeously
 - Appropriate methods of maintaining a minimum 3 metre distance between the public and loud speakers must be in place.
- 103 Noise readings within the site boundaries and off site are taken during the event and readings submitted to PKC. Ahead of the event two off-site noise monitoring locations are agreed with PKC and employed at points representative of the nearest affected properties. Those are to the north and east of the arena, reflecting prevailing wind movement. The licence prescribes noise levels at those points which are varied at times throughout the day.

- 104 The licence includes briefing of sound personnel; real-time noise data feeds to PKC Environmental Health personnel and the establishment of a complaints line which is publicised ahead of the event, for the receipt of complaints from local residents.
- 105 The Council's Environmental Health Manager has confirmed that to date noise issues at the event have been controlled effectively and future events would be the subject to the same licensing processes. Furthermore he confirms that, for an event of this nature, the PEL controls constitute a more effective and responsive approach to noise control than planning conditions. It should also be noted by Members that consent was recently granted at the Licensing Committee to extend the hours of operation of the main arena from midnight to 1am. It should also be noted that the applicant is currently seeking consent to extend the opening hours of the arena on Friday. Currently the arena opens at 4pm with music starting at 4.30pm. The change sought is to allow the arena to open at 12pm with music starting at 2pm. At the time of writing this change is currently being assessed by the Council under the PEL and is likely to be determined by the time this application is presented to Committee.
- 106 The noise associated with this activity has a marked effect on the general amenity of this rural area and has the potential to adversely affect the amenities of some residential properties. However, the limited duration of the event and the practical and effective control measures employed through the PEL to minimise disturbance are such that it is considered that continued use of the land in 2014, for the purpose of a 3 day music festival would not adversely affect local amenity to any material extent.

Litter

- 107 Concerns have previously been expressed about the number of tents left at the site after the event and the general unsightly appearance of litter.
- 108 The Environmental Management Plan forming part of the PEL has been included as part of the supporting planning statement.
- 109 Measures for the management of waste, the clearance of debris from the site and surrounding areas and an inspection regime during event time are detailed. A commitment to recycling is set out. It is explained that recycling initiatives are deployed within the site to influence crowd behaviour, to meet recycling target rates and to satisfy licence requirements.
- 110 The applicant acknowledges the problem of used tent disposal and commits to addressing the issue through promotion material on site and through waste management contractor arrangements which will seek to offer a solution to festival goers wishing to leave their tents for recycling.
- 111 The visual effects of debris across such a wide area are considerable following the event itself and a planning condition is included as part of any permission to ensure clearance within a prescribed period.

Contaminated Land:

- 112 Known areas within the application site formerly used for tipping have been inspected by the Council's Environmental Health Service. Soil sampling and testing confirms that in contaminated land terms there are no issues from this area being used as camping ground.

Expanded site:

- 113 The red line site boundary proposed through the application includes land to the south of the A977 which has not been used in previous years in connection with any festival activity. Concern has been expressed that this land could be used for camping or car parking activities associated with the festival. As a consequence the amenities of occupiers of nearby housing at Balado and businesses at Heatheryford could be adversely affected.
- 114 The applicant has confirmed that there is no intention to use the land for camping, car parking or any activities associated with the 2014 event. The land has been identified as offering contingency potential in the event that any part of the main site is unexpectedly rendered unavailable for use, for example through flooding or as a consequence of an emergency event. Accordingly it has been necessary to bring the land within the application site boundary. The applicant considers this to be a necessary, appropriate and responsible measure for the organisation of a music event of this scale.
- 115 A planning condition is included as part of any consent to limit this area to the use of contingency activities only.

Water Environment:

Phosphorus

- 116 The site is located within the Loch Leven Catchment Area where Local Plan policies seek to secure phosphorus reduction measures in the interests of maintaining the conservation value and interest of the Loch (SSSI, SPA, Ramsar). Loch Leven is the largest naturally nutrient rich freshwater loch in lowland Scotland and maintenance and improvement of water quality is considered to be a key measure in maintaining the ecological quality of the loch.
- 117 Scottish Water confirms that mains drainage is not available to serve the site.
- 118 Temporary toilet and wash facilities are employed during the festival. All foul wastes are collected and disposed of to Scottish Water Waste Water Treatment Plants outside of the Loch Catchment Area.
- 119 The dependence on temporary toilet accommodation to serve the festival, the process of collection and disposal and the large numbers of people attending the site all have the potential to increase phosphorus transference to ground water thereby increasing phosphorus loading on Loch Leven SPA and Ramsar

site. This could have potentially serious adverse impacts on the water environment and contribute to a reduction in water quality with associated impacts on the function and supporting process of the aquatic environment.

- 120 The supporting Planning Statement reviews the arrangements which have been practiced in previous years for foul drainage and grey water management at the festival. In addition, and for the first time, ground conditions have also been appraised and presented following desk study and site walkover. Infrastructure (dirty water storage tanks), hydrogeology, surface water routes and field drain discharges to watercourse within the site have all been detailed.
- 121 Although waste water is tankered off site and removed from the catchment area, with any festival of this nature and scale it is acknowledged that there can be an uncertain level of non-compliance with the use of the toilet facilities. Such activity has been observed at previous festivals and brings with it the potential for transference of phosphorus to the water environment.
- 122 A Legal Agreement formed part of the 2012 planning approval to ensure phosphorus mitigation. The purpose of the Legal Agreement was to mitigate the effects of potential phosphorus loading on Loch Leven SPA SSSI and Ramsar site from the T in the Park festival which generates a significant population increase to the Loch Catchment area. This was achieved through removing from agriculture, 8.13ha of land.
- 123 The applicant has indicated that this same land (within the applicant's ownership) could again be used to provide the phosphorus mitigation sought by planning policy and would be content to use a S75 Legal Agreement as part of any new planning permission which in effect be identical to the agreement on the previous consent.
- 124 Scottish Natural Heritage raise objection to the current planning application **unless** conditions and a Legal Agreement form part of any planning approval to deliver and sustain effective mitigation. This would entail:
- Planning measures / legal agreements are put in place to secure the proposed phosphorus loading mitigation measures; namely cessation of agricultural use for the long-term; no livestock; and no fertiliser;
 - Maintenance of buffer strips around watercourses.
- 125 SEPA welcomes the applicant's commitment to bind land through a Legal Agreement forming part of any new planning permission, in order to deliver sufficient phosphorus mitigation to comply with Planning Policy. It should be noted that it is no longer considered appropriate by SNH to take agriculture land out of use to enable phosphorus mitigation but they have indicated that given the circumstances associated with this site, being a single consent for one year and a continuation of an established use on the site that on balance this is considered an acceptable method of mitigation.

Ground Conditions:

- 126 Disturbance of ground surface can provide potential for 'stored' phosphorus locked in surface soil to creep to ground water. The application details measures adopted at construction/deconstruction stage to protect ground surface from the impacts of HGV and other delivery vehicles (deployment of reinforced rolled matting to field entrances and service access routes; utilisation of existing hard surface areas for the storage/handling of materials). These mitigation measures would be practical and could be conditioned as part of any planning approval.

Pollution control:

- 127 The potential exists for contamination of watercourses from the storage and handling of oil/petrol/diesel associated with festival activities. To mitigate the effects in this sensitive water environment the following measures are highlighted through the supporting planning system:

- Daily regime of foul waste collection and transfer out of the Loch Catchment Area is given;
- Watercourse and open field drains would be protected through security fencing;
- Maintenance regime for foul waste collection points outlined;
- All oil, petrol, diesel and other potentially contaminating fluids would be stored on hardstand areas with appropriate bunding and be sited more than 30m from any watercourse;
- No waste transfer between vehicles or into vehicles within 30m of any watercourse;
- Emergency spill measures are outlined;
- Condition and integrity of underground storage tanks subject to inspection and maintenance regime;
- Waste collection, storage and disposal regime detailed;
- Watercourse abstraction as temporary dust suppression method only if required;
- A commitment to the continued approach of managing grass areas within the application site without the use of fertilizers;
- Ground disturbance at construction and operation phases of large scale events are minimised through confining heavy vehicle movements to areas of hardsurfacing and through the use of fabricated trackways;
- Temporary extension of length of existing culvert on Ury Burn to enhance access to the main arena.
- A commitment to a S75 Legal Agreement limiting agricultural activity within the site to a silage crop only.

- 128 The Planning Statement identifies that mitigation and contingency measures would be fully set out in the Environmental Management Plan produced as a requirement of the Entertainments Licence and which is targeted to the specific site layout in each year, along with operational plans for sanitation, drinking water and waste management. Some supplementary information has also been submitted outlining contingency measures in relation to spillage and leaching of cooking oils and diesel fuel. The applicant identifies that in the past

these measures have been formulated after consultation with a number of interest groups including SEPA.

- 129 In their consultation response SEPA state that the 2013 Environmental Management Plan has been submitted with this application, however this will require to be updated for the 2014 event as it is required to be specific to the site layout which could potentially change. A condition can ensure this. Operational Plans will be produced for sanitation, drinking water and waste management, similar to those produced for 2013 and again these can be requested by planning condition.
- 130 SEPA raise objection to the application **unless** conditions are included as part of any planning approval to:
- deliver and sustain arrangements for foul waste disposal outside of the Loch Leven Catchment area as outlined above;
 - submission to and approval by the Planning Authority of a full site and event specific Environmental Management Plan prior to the event;
 - provision of fence protection to watercourses and buffer strips;
 - clearance of waste from site no more than 14 days following the event.

Flood Risk

- 131 A small area of the wider festival site is identified on the SEPA Flood Risk Map as liable to watercourse flooding from a 1 in 200 year flood event. The submitted layout identifies that these areas will not be used or will be limited to vehicle parking only.
- 132 SEPA has identified an area adjacent to the North Queich watercourse where campervans are proposed which is at risk from flooding and have strongly recommended that this area is not used for campervans. Having discussed this with the applicant they are aware of this and given that the campervans are moveable and that an emergency plan will be prepared specifically in relation to flooding I am satisfied that any flood risk can be suitable mitigated. The condition regarding emergency response plan will specifically request this aspect to be considered.
- 133 SEPA do not require flood protection on the application site. Accordingly they advise that any proposals for flood protection should be fully detailed and come forward as part of the Environmental Management Plan which would be required, by planning condition, to be submitted to the Council for agreement ahead of any event. This would provide opportunity for consultation with SEPA when full details are known.
- 134 Unlike the previous consent no culverting of burns is proposed this year as this was an issue of concern for SEPA during consideration of the previous consent.
- 135 Conclusion:

In conclusion it is considered that the proposals, with mitigation, could provide for an acceptable relationship in planning and environmental terms to the Loch Leven SPA, Ramsar site and SSSI.

Ecology:

136 The applicant has commissioned an ecological appraisal of the site comprising an extended Phase 1 Habitats assessment (including walkover) for the previous application and an updated survey has been undertaken for this application which has confirmed the earlier findings are still relevant. The results are presented through the supporting Planning Statement. The survey aimed to identify all broad habitats within the site boundary whilst identifying any which might support populations of protected species. Survey work was undertaken by an Ecological Consultancy and followed standard methods endorsed by SNH and the Institute of Ecology and Environmental Management.

137 Based on the outcomes of the desk study and the habitats found within the site, searches for direct evidence and suitable habitat for the following species was made:

- Badger,
- Bats,
- Otter, &
- Water Vole.

Red squirrels were surveyed as part of the 2011 assessment but no evidence was found so they were not considered in this updated survey.

138 The survey finds that the site itself is dominated by agricultural habitats, with woodland, scattered scrub habitats also being present. All of the habitats present are widespread and common within the local area. The majority of the application site is heavily managed for agricultural purposes as improved grass land. No species rich habitat is present. The survey concludes that the temporary nature of the festival would serve to limit impacts and that any potential adverse effects are likely to be reversible.

139 The survey acknowledges that the two watercourses running through the site have the potential to be more ecologically sensitive than other parts of the site and potentially could take longer to recover from the effects of temporary disturbance. As a consequence the survey advises, as a mitigation measure, that an exclusion zone of 10m is maintained around these areas to deter public access.

140 In relation to protected species the survey concludes that:

Badger

141 The site has potential to support a badger population although no field evidence of badger activity and no badger setts were identified.

Bats

- 142 Some limited tree roost potential exists within the application site. However, the majority of field boundaries comprise post wire fencing and are devoid of hedgerows. Accordingly foraging potential within site is considered to be limited. Survey identifies that residential properties off-site offer roost potential. Mitigation measures comprising the establishment of an 10m exclusion zone to prevent public access to the woodland stands and tree lines to the north of the application site are advised.

Otter

- 143 Watercourses bounding the site (North and South Queich) offer some potential for use by Otters. However, the absence of natural shelter to the margins of the watercourse due to the improved grass land management the river corridor is considered to constitute sub-optimal habitat. The corridors are considered to offer potential for commuting and foraging. No otter holts/lay ups or field signs were identified during the field survey. Mitigation measures comprising the establishment of an exclusion zone to prevent public along the line of the watercourse is advised.

Water Vole

- 144 No burrows or signs of water voles were identified during field survey, however the appraisal does conclude that scrub habitat present along North and South Queich does provide some potential sheltering habitat for voles. However, both watercourses were noted to be relatively fast flowing and devoid of in-stream vegetation. As a consequence the appraisal concludes that the site is considered unsuitable for use by water voles.

Conclusion:

- 145 The Council's Biodiversity Officer is content with the appraisal of habitat, habitat loss and disturbance within the application site as set out in the Ecological appraisal. He considers that the proposals would not adversely affect population, distribution or habitat of protected species and he accepts that the positive mitigation measures proposed (establishment of an exclusion zone to prevent public access along the line of the watercourse and the submission and agreement of details of artificial lighting (siting and direction) adjacent to watercourses, field boundaries and woodland) could safeguard biodiversity interests at the site and should be conditioned as part of any planning approval.

Appropriate Assessment

- 146 The ecological appraisal identifies the close proximity of the site to the proposed Loch Leven SPA and Ramsar site and the Glen Queich SSSI, all which lie within 5km of the site. The appraisal concludes that the summer staging of the festival and its limited duration would be unlikely to affect the qualifying interests of those protected areas.

- 147 The section of this report relating to the water environment has highlighted that the proposals do have the potential to have significant effects on the qualifying interests of Loch Leven SPA, Ramsar site and SSSI. The proposals are not directly connected with or necessary to the management of the SPA accordingly the Council as 'Competent Authority' under the Habitats Regulations is obliged to consider the implications of the development on the Loch Leven conservation objectives.
- 148 An Appropriate Assessment screening exercise has been undertaken after fully considering the details submitted in the supporting Planning Report.
- 149 It is concluded that planning conditions and a Legal Agreement could form part of any planning permission to ensure that any potential adverse impacts on the integrity of the protected site and habitat would not be likely. The Legal Agreement would remove land from agricultural use and prohibit the application of fertilizers.
- 150 In addition the advice received from environmental bodies, including SNH and SEPA has been carefully considered. In summary, it is considered that likely significant effects from this activity could be mitigated in the following way:
- S75 to remove land from agricultural use and prohibit application of fertilizers
 - Protection of field drains/watercourses
 - Handling operations for foul waste – control by condition
 - Pollution Control Measures – control by condition
- 151 Members should note that if the Committee is minded to grant planning permission without the Legal Agreement and conditions outlined above the recommendation **must** be referred to Scottish Ministers for clearance due to the unresolved objections from SNH and SEPA.

Transportation

- 152 Traffic levels grow by significant amounts during the music event and vehicle movement on the road network around the site and on the M90 is slow moving with the potential for traffic nuisance. Over the years field gates around the site and serving adjacent farm land have been improved (widened, drained and surfaced) to facilitate ease of vehicle movement and off-site car parking for the T in the Park event.
- 153 Specific measures and practices to manage vehicle movements at both construction and operational stages of the event have been have been adopted in previous years. These have been incorporated within a Traffic Management Plan forming part of the PEL and have evolved over time through consultation with multi-agency groups which include Transport Scotland, Highway Management Agencies, and emergency services across the Central Belt. The planning supporting statement identifies that these measures would continue for the duration of any new consent. They include:

- Promotion of public transport
 - Provision of buses from major centres of population;
 - Specific event only access lanes on the M90;
 - Walking routes from Kinross;
 - Staggering of event times to avoid same time arrival
- 154 Presently the existing public route network, its capacity and the size of the site itself are factors which have enabled the safe movement of vehicles to and from the site.
- 155 The practice in previous years has been to adopt a defined route network for construction and decommissioning stages. This routes heavy vehicles away from the closest residential properties in the vicinity by servicing the site from the south via the A977 and the B918 thereby minimising adverse effects on residential amenity. This entails the use of some of the surfaced areas of the former airfield at Balado.
- 156 Neither the Council's Transportation Service, nor Transport Scotland raise objection. Accordingly, on the basis that the established traffic management practices will be adopted it is not considered that the use of the land in 2014, for the purpose of a music festival, would adversely affect local amenity through increased traffic congestion.

Economic Impacts:

- 157 SPP (para 45) identifies that the planning system should seek to support economic development in all areas by taking account of the economic benefits of proposals in development management decisions.
- 158 The supporting planning statement refers to an appraisal of the economic benefits of the T in the Park Music Festival. Reference is made to a report commissioned in 2006 (Ekos Consulting), based on a 3 day festival attracting 69,000 attendees per day (the event has since increased in size and duration (now 3 day event attracting 85,000 persons in addition to 7500 staff).
- 159 The 2006 Ekos report is not included within the supporting statement but the following economic conclusions from that study are presented:
- The event generated 33.9 annual full time equivalent jobs at the Perth and Kinross Level;
 - The event generated a net additional impact of £1.42m at the Perth and Kinross level;
 - Visitors to the event have a committed a higher average daily spend compared to other overnight visitors to Perth and Kinross;
- 160 The economic contribution of the music festival to the local economy can be recognised as significant for a single event of such limited duration.

LEGAL AGREEMENT

- 161 A Legal Agreement would be required as part of any planning permission to limit for the duration of the consent (i) agricultural activities within part of the application site and (ii) to prevent the application of fertilisers to the land. Such measures would be necessary to realise the phosphorous reduction measures required by planning policy for development within the Loch Leven Catchment area and to avoid likely significant effects which would compromise the conservation interest of the Loch Leven SPA, Ramsar and SSSI.

DIRECTION BY SCOTTISH MINISTERS

- 162 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 call in or notification relating to this application.
- 163 However, Members should note that should they resolve to support the application and recommend the grant of planning approval against the advice of the Health and Safety Executive, or that the objections from SNH and SEPA could not be resolved through the use of a planning Legal Agreement, it would be necessary to refer the application to Scottish Ministers for clearance.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 164 This application seeks consent to continue the staging of a large scale, 3 day music festival with associated camping and vehicle parking in the summer of 2014 only. The music event has operated from this site since 1997. The applicant's experience of managing the operational and environmental effects of the event in this sensitive environment has been relied upon in setting out, through the supporting planning statement, the measures of mitigation proposed. This has been the subject of consultation with interested bodies. As a consequence there is sufficient certainty of predicted environmental effects to conclude that EIA is not required for a 3 day festival for this year only.
- 165 A number of mitigation measures could be delivered by way of conditions on any planning approval and through the use of a planning Legal Agreement. SEPA and SNH are satisfied that this would ensure that the integrity, interest, and value of the Loch Leven SPA and Ramsar site could be safeguarded.
- 166 Other detailed planning issues can be satisfactorily addressed by condition and no objections are raised by relevant consultees.
- 167 However, a fundamental planning and environmental concern remains the potential effects on population from any failure of the major hazard pipeline which runs through the site. Much of the site lies within the HSE defined consultation zone for the pipeline.

- 168 Through its on-line planning consultation tool, the Health and Safety Executive, (a key, specialist planning consultee on safety matters in relation to hazardous installations) returns an automated response of *advise against* in relation to the continued use of the land as a major festival site for a further year.
- 169 However, quite separately HSE has written to the Council to set out the sensitivities of the use and the site itself to risk from the pipeline. They set out their understanding of the context of this application and confirm that it follows a number of pre-application meetings between HSE and the applicant since the previous planning application was considered by the Council.
- 170 HSE acknowledges that there will inevitably be time constraints involved in moving a nationally important event of this scale and nature to an alternative site. Furthermore they do recognise that through this submission the applicant has sought to resolve many safety concerns through changes to: layout; pedestrian movement within the site; stage arrangement; activity location and camping areas, similar to the 2012 consent. HSE confirm that many of the changes would give some risk reduction. Together with conditions designed to influence population levels within the pipeline consultation zone during the festival, and within the context of an application for an additional year only, designed as a means of facilitating movement away from the present site, HSE can recognise that the submitted proposals demonstrate a proportionate and progressive reduction of risk.
- 171 However, in their letter HSE confirm that they must, for public safety reasons, stand by the consultation advice against the continued use of the site because of the large numbers of people in close proximity to a major hazard pipeline. Those concerns are unable to be satisfactorily mitigated through this application i.e., the public cannot be effectively protected from a failure event. They do however, go on to identify that they are satisfied that Perth and Kinross Council can make an informed determination in the full understanding of HSE's advice and that, in the particular circumstances set out in their letter, HSE would not invite Scottish Ministers to call-in the application should the Development Committee resolve to approve the application against that advice.
- 172 The HSE's role in the land use planning system is to provide planning authorities with advice on the nature and severity of risk to people presented by major hazard installations. The HSE letter and consultation seeks to assist with a technical understanding of risk from this development to enable the Council to arrive at an informed decision, where the consequence of the operation of an events base in close proximity to a hazardous pipeline is fully understood. The issue of public safety is a serious one.
- 173 Whilst these safety concerns have been fully explained by HSE through their supplementary letter it is necessary to consider also the possible social and economic consequences of such a use in this location and to strike an appropriate balance between the risks to population and the wider benefits of development.

- 174 Officers acknowledge that risks to population are a consequence of the continued use of the application site for a music festival. Although it is acknowledged by HSE that a pipeline failure event is unlikely, should such an accident occur the effects on population have the potential to be significant.
- 175 This application seeks a consent for a limited period of one additional year and as a means of providing a practical and reasonable period to explore alternatives which would enable the continuation of one of Scotland's most successful and popular social and cultural events.
- 176 A single event only of a limited duration (3 days) is planned for this year. Progressive and proportionate risk reduction measures have been incorporated through a commitment to finding a new site, changes to site layout and the use of planning conditions to limit population numbers and activities within the pipeline consultation zone. It is also noted that the pipeline operator does not oppose the proposals and the site operator is familiar with the pipeline route and the need for protection of infrastructure.
- 177 In these circumstances and after careful consideration, Officers are satisfied that in this instance, when weighing the planning issue of public safety in the balance with economic and other benefits a conditional planning approval can be supported.

RECOMMENDATION

Approve the application subject to the following conditions:

- 1 Consent is hereby granted for a limited period of one year from the date of application submission, after which time the permitted use shall cease and the wider application site (excluding the Balado Park Activities Centre) shall be reinstated to its former condition to the satisfaction of the local Planning Authority.
- 2 This permission shall provide for a single large scale major music festival only on the application site in 2014.
- 3 The proposed development shall be carried out in accordance with the layout plan submitted with the application, unless otherwise provided for by conditions imposed on this planning consent (any layout changes must comply with requirements of Condition 4 below).
- 4 The layout for the major music festival authorised by this permission (i.e. all activities/events, stages and attractions, both tented and outdoor) and distance from the BP Forties pipeline, shall be in accordance with the following table unless otherwise agreed in writing by the Council as Planning Authority with the agreement of HSE:-

Tented & Outdoor Stage/attractions Capacity/Persons	Minimum Distance from Pipeline Centreline to Tent/Crowd Area Centeroid
Less than 2000	Outside inner zone boundary (greater than 110m)
3000	130m
4000	245m
5000	315m
6000	355m
7000	370m
More than 8000	Outside outer zone boundary (greater than 435m)

5 The following additional restrictions shall apply to the music festival authorised by this permission:

- (i) The centre of the area set aside for the audience at the “main stage” shall be not less than 475m from the pipeline. Provision shall be made, including a physical barrier (or other suitable measure to the agreement of the Council as Planning Authority and the agreement of the HSE), to prevent the attendant crowd at the “main stage” being nearer than 380m to the Pipeline.
- (ii) No member of the public shall be present inside the boundary of the inner zone (110m from the pipeline), with the exception of parking their vehicles, and access/egress. Parking provision (except that restricted to the applicants or operators’ employees in relation to the major music event authorised by this permission or its contracted workforce) inside the inner zone, shall be in a manned controlled area, solely for vehicles used to transport the public. Controls to be in place to prevent members of the public being present for significant period (>30 mins), and especially: assembly, picnicking, camping, sleeping in vehicles, dispersion of those attending the event at the end of each day unless otherwise approved by the Council as Planning Authority with the agreement of HSE.
- (iii) Camping, caravanning or other provision for accommodation (overnight or otherwise) shall only be permitted outside the middle consultation zone boundary (380m from the BP Forties Pipeline) and in areas prescribed by the layout).

6 Prior to the commencement of the major music festival authorised by this permission a wayleave extending 6m either side of the hazardous pipeline

route through the application site shall be created through the erection of herras fencing, or another appropriate alternative agreed in writing by the Council as Planning Authority, to prevent public access to the pipe. The protective fencing shall remain in place for the duration of that event/activity. There shall be no access to the pipeline easement strip, as detailed above, for either: vehicles (except at agreed crossing points), the public, event employees or its contracted workforce; for the duration of each of the major music festivals authorised by this permission, unless directed by the pipeline operator.

- 7 There shall be no storage at any time (temporary or permanent) of combustible material or the lighting of fires along the pipeline route or within the wayleave area.
- 8 Prior to the commencement of the major music festival authorised by this permission the location of fixed pipeline crossing points for vehicles and pedestrians shall be submitted to and agreed in writing by the Council. Where necessary crossing points shall be reinforced in accordance with details which shall previously have been submitted to and agreed in writing by the Council as Planning Authority.
- 9 Prior to the commencement of the major music festivals authorised by this permission full and practised Emergency Response Plans shall have been put in place in accordance with details which previously shall have been submitted to and approved in writing by the Council as Planning Authority. Such details shall include the results of desk top and site testing.
- 10 The clearance of waste, litter and other debris from the application site and generated by any event permitted by this consent shall be completed 14 days from the end of that event.
- 11 During construction and de-commissioning phases of the festival or Major event permitted by Condition 2 of this consent reinforced track surfacing for ground protection to site access, service roads and car park entrances within the application site shall be laid, and utilised by vehicles, and shall remain in place for the duration of the event itself.
- 12 The routes and arrangements for vehicle access to the site for construction and service vehicles associated with construction and de-commissioning phases of any Major event permitted by Condition 2 of this consent shall accord with details which shall have been submitted to and agreed in writing by the Council as local Planning Authority, in advance of any such event.
- 13 Prior to the staging of any event or activity, measures for the protection of dry drainage ditches, watercourses, and woodland areas within the application site shall have been put in place through the erection of herras fencing or another appropriate alternative agreed in writing by the Council as Planning Authority, at a minimum distance of 10m back from the edge of ditch, watercourse and woodland. The fencing shall prohibit public access to the

ditch, watercourse and woodland and shall remain in place throughout the duration of the event.

- 14 Waste Water (sewage and grey water) for the event permitted by Condition 2 of this consent shall be removed from the Loch Leven Catchment Area. Proposals for dealing with foul drainage shall accord with details which previously shall have been submitted to and approved in writing by the Council as local Planning Authority. Prior to the commencement of any event/activity the applicant shall submit evidence to show that a contractual obligation has been entered into by the applicant with contractors for the complete removal of all effluent from the site and the Loch Leven Catchment area, as defined in the Kinross Area Local Plan 2004.
- 15 At least two weeks prior to the commencement of any festival event authorised by this permission a site and event specific Environmental Management Plan, fully detailing the mitigation and contingency measures outlined in the supporting planning statement and incorporating operational plans for sanitation, waste management, drinking water and flood prevention measures, shall be submitted for the written approval of the Council as Planning authority in consultation with SEPA. The approved mitigation and contingency measures shall be put in place for each event in accordance with those approved details.
- 16 Any artificial lighting to be accommodated within the application site shall accord with the guidance set out in the ecology section of the applicant's supporting planning statement (para 9.77). All lighting should be directed away from woodland areas, tree lines and watercourses and shall incorporate shades to prevent light spill and to direct light into field areas.
- 17 In accordance with the applicant's letter of the 01 March 2012 submitted with application 12/00078/FLM, the land within the application site and to the south of the A977 shall not be used in connection within any ancillary festival activity and shall only be used as a contingency as an exceptional, emergency response facility.

Reasons

- 1-9 To clarify the extent of the permission for the avoidance of doubt and to minimise the risks to persons using/visiting the site due to its proximity to a major hazard pipeline.
- 10 To clarify the extent of the permission for the avoidance of doubt and to safeguard the amenity of the area.
- 11-15 To clarify the extent of the permission for the avoidance of doubt and to ensure details are acceptable to the Council as Planning Authority to safeguard the water environment in the interests of amenity.
- 16 To clarify the extent of the permission for the avoidance of doubt and to safeguard local biodiversity in the interests of amenity.

- 17 To clarify the extent of the permission for the avoidance of doubt and to safeguard local residential amenity.

B A Legal Agreement to deliver Phosphorus Mitigation

C JUSTIFICATION

The submitted proposal is considered to accord with the Development Plan and there are no material reasons which justify departing from the Development Plan.

D PROCEDURAL NOTES

No consent shall be issued until a legal agreement is signed for the delivery of the phosphorus mitigation measures relating to the removal of land from agriculture for the duration of this consent.

No consent shall be issued until confirmation has been received by Scottish Ministers.

E INFORMATIVES

1. In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006 the development shall be begun within a period of three years from the date of this consent.
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. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
- Readily visible to the public
- Printed on durable material.

5 In relation to the requirements of condition 15 of this permission the applicant's attention is drawn to the consultation response and advice set in SEPA's letter of the 6 December 2013.

Background Papers: None
Planning Officer: John Williamson – Ext 75360
Date: 30 January 2014

Nick Brian
Development Quality Manager

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting the Directorate Support Team
on
01738 476408



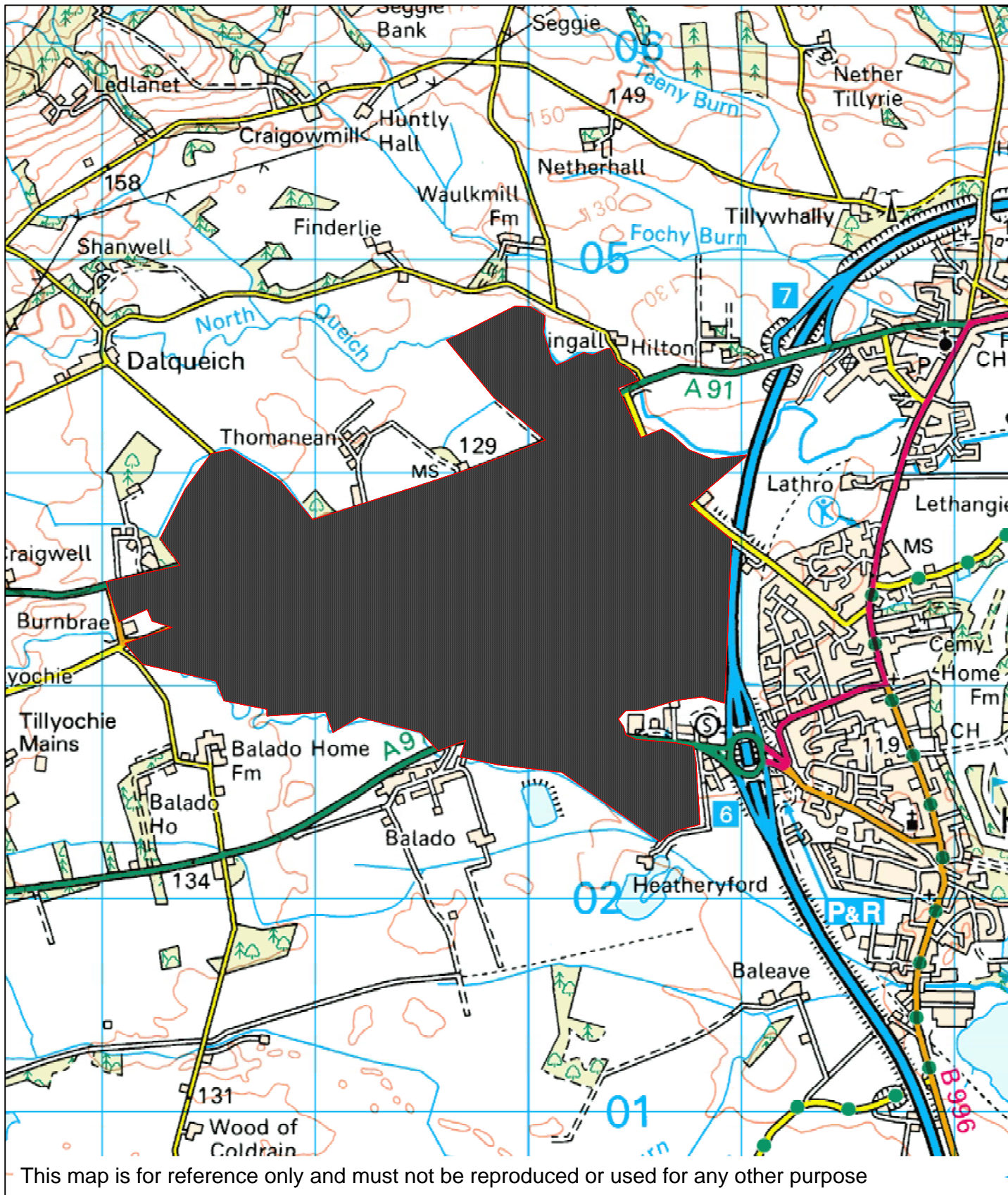
Council Text Phone Number 01738 442573

Perth & Kinross Council

13/02107/FLM

Balado Park, Milnathort

Temp. c/u for one year to Class 11 (assembly and leisure)



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↑ Scale
1:25000