

Perth and Kinross Council  
Development Control Committee – 02 June 2010  
Report of Handling by Development Quality Manager

**Change of agricultural use to form paddock and training track for race horses  
on Land at Middleton Stables, Fossoway, KY13 0PB**

Ref No: 08/02368/FLM  
Ward No: N8 - Kinross-shire

**Summary**

This report recommends approval of the application for the formation of paddocks and a training track for race horses as the development is considered to comply with the Development Plan.

**Background and Description**

- 1 The application site is located within the landward area of Kinross-shire and is situated between the A91 to the North and a minor road to the south. There is a considerable amount of history associated with this site. Application 08/01067/FUL was submitted for the erection of non-commercial race horse stabling as well as a staff welfare facility which was approved subject to conditions. A modification was sought under application 08/02312/MOD which altered the layout of the stable building and changed the stabling to a commercial race horse facility which was subsequently approved. A further application for the extension of the welfare facility was approved under application 09/00884/FUL. An application which seeks to change the staff welfare facility to provide dwellinghouse and associated office accommodation to the racehorse stable/training centre has also been submitted and was approved by the Development Control Committee on 12 May 2010.
- 2 This application is for the change of use of agricultural land to provide paddocks and training track for the racehorse facility. It should be noted that works have commenced which include partial excavation along the alignment of the proposed training track and the laying of chipped wood on top of the area which have been undertaken without the benefit of planning permission and an enforcement case has been opened on the site which also coincides with the breach of conditions which relate to application 08/02312/MOD. The applicant's agent has highlighted an intention to undertake remedial works to alleviate these breaches.
- 3 The track as proposed consists of a single straight track running from the western tip of the site in a north-easterly direction to meet the oval track at the north east edge of the site. A section of curved track to the west which is unauthorised and not part of this submission will be removed.

## **National Policy and Guidance**

### **The Scottish Planning Policy 2010**

4 This SPP is a statement of Scottish Government policy on land use planning and contains:

- the Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are:-

- Paragraphs 45 - 51 : Economic Development
- Paragraphs 92 - 97: Rural Development.
- Paragraphs 125 -148: Landscape and Natural Heritage
- Paragraphs 165 -181: Transport

### **Planning Advice Note 60: Planning for Natural Heritage**

5 This Planning Advice Note (PAN) provides advice on how development and the planning system can contribute to the conservation, enhancement, enjoyment and understanding of Scotland's natural environment and encourages developers and planning authorities to be positive and creative in addressing natural heritage issues.

### **Development Plan**

6 The Development Plan for the area comprises the approved Perth and Kinross Structure Plan 2003 and the adopted Kinross Area Local Plan 2004.

### **Perth and Kinross Structure Plan 2003**

7 The principal relevant policies are in summary: -

#### **Policy 4: Environment and Resources**

8 The Tayside Landscape Character Assessment will be a material consideration in the identification of land allocations in Local Plans and in the assessment of development proposals. In addition Local Plans may develop criteria to assess the sensitivity of local landscape types to different types of development.

## **Kinross Area Local Plan 2004**

- 9 Under the Local Plan the site lies out with any defined settlement boundaries where countryside policies prevail.

### **Policy 02: Development Criteria**

- 10 All developments within the Plan area will be judged against a series of criteria including the scale, form, colour and density of development within the locality compatible with its surroundings in land use terms, local road and public transport network should be capable of absorbing the additional traffic generated by the development sufficient spare capacity in drainage and water and the site should be large enough to accommodate the impact of the development.

### **Policy 05: Kinross Landscape**

- 11 Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Kinross-shire Landscape Character Assessment published by Scottish Natural Heritage.

### **Policy 06: Design and Landscaping**

- 12 The Council will require high standards of design for all development in the Plan Area. The design principles set out in the Council's Guidance on the Design of Houses in Rural Areas will be used as a guide for rural housing applications and where appropriate for other forms of built development.

### **Policy 07: Design and Landscaping**

- 13 Details of landscape treatment should be submitted with development proposals including where appropriate, boundary treatment, treatment of settlement edges, and impact on key views. Developers will be required to demonstrate that satisfactory arrangements will be made, in perpetuity, for the maintenance of areas of landscaping.

### **Policy 51: Rural Diversification**

- 14 Encouragement will be given to farmers and landowners wishing to diversify their businesses particularly where this will: generate additional permanent local employment; provide additional tourism / recreational facilities or accommodation, or re-use existing buildings, provided proposals are compatible with the following criteria: -
- a) The site planning is satisfactory.
  - b) The existing buildings are of a suitable structural and architectural quality for the intended use.

- c) The proposal does not conflict with any other policies or proposals contained in the Plan.
- d) The proposal will not detrimentally affect the amenity of the countryside.
- e) Satisfactory access to the public road network can be provided.
- f) The proposals will not adversely affect the viability of any agricultural unit or operation.
- g) Any extensions or additional buildings required to accommodate the new uses are in keeping with the scale of the existing buildings.

### **Other Policies**

15 None

### **Site History**

- 16 08/01353/FUL - Erection of a non-commercial race horse facility consisting of 18 stables, training area with associated car parking and staff welfare facility/office accommodation – Withdrawn.
- 17 08/01607/FUL - Erection of race horse facility with 18 stables, training area with associated car parking and staff welfare facility/office accommodation - Approved subject to conditions.
- 18 08/02312/MOD - Modification of existing consent (08/01607/FUL) Change of stable design and layout – Approved subject to conditions.
- 19 09/00183/FUL - Erection of a guest house – Refused.
- 20 09/00884/FUL - Alterations and extension to staff welfare facility to provide manager's office – Application approved subject to conditions.
- 21 09/01217/FLL - Change of use of staff welfare facility to provide dwellinghouse and associated office accommodation to the racehorse stable/training centre – Approved subject to Condition and Section 75 Legal Agreements.
- 22 09/01413/FLL - Erection of a guest house – Refused
- 23 10/00610/LL – Erection of a machinery and storage shed – Refused.

### **Consultations**

- 24 **Scottish Water:** No objection.
- 25 **Perth and Kinross Heritage Trust:** No archaeological condition is recommended.

- 26 **Environmental Health:** No objection to the principle of the development but concerns raised regarding the potential impact of external lighting.
- 27 **Fossway & District Community Council:** No details of track construction, unclear layout and details of embanking, levelling and fencing are sketchy.

### Representations

- 28 A total of 3 letters of representation have been received. The points that are applicable to the assessment of this application for the training track and paddocks are as follows:
- Concerns regarding the ground works, levels and fencing of the site associated with the training track.
  - Located next to a site of conservation interest.
- 29 These issues are addressed in the Appraisal Section of this report.

### ADDITIONAL STATEMENTS

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

### Appraisal

- 31 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The adopted Development Plans that are applicable to this area are the Perth and Kinross Structure Plan 2003 and the Kinross Area Local Plan 2004.
- 32 The determining issues in this case are whether: the proposal complies with Development Plan policy; whether the proposal complies with supplementary planning guidance; or if there are any other material considerations which justify a departure from policy.

### Rural Diversification Policy:

- 33 Sustainable Economy Policy 3 of the Perth and Kinross Structure Plan gives support to promote an integrated flexible and innovative approach to rural development which encompasses economic, social and environmental considerations. It specifies that local employment opportunities should be maintained or enhanced, diversification should be promoted and development

should sustain viable rural communities and services. This wide arching policy is embodied in the Local Plan under Policy 51: Rural Diversification although includes a specific requirement to ensure that the amenity of the countryside is not detrimentally affected.

- 34 As highlighted in the site history, an application for a stable block has already been approved and is now built (planning application 08/02312/MOD refers). This current application is for a change of use to paddocks and a training track which relates to the stable accommodation and will provide additional facilities on site for the equestrian development.
- 35 Having taken account of the surrounding landuse I am content that the exercise, training and grazing of horses is compatible with the surrounding land uses. Overall the application complies with Policy 3 of the Perth and Kinross Structure Plan and Policy 51 of the Kinross Area Local Plan subject to the satisfactory siting and design which is discussed in further detail under landscape impact.

### **Potential Impact on Heritage**

- 36 The site is located in close proximity to Scheduled Ancient Monuments. The consultation with the Perth and Kinross Heritage Trust has highlighted that the development is outwith the protected areas therefore no archaeological condition is recommended.

### **Landscape Impact**

- 37 The application site which is triangular in nature dissects the Area of Great Landscape Value which covers the River Devon to the south and Lendrickhill/Thorntonhill to the north. Taking account of this and the visibility of the site from the public road (A91 and U222) which abut the application boundary, it is important to ensure that the development does not have an adverse impact on this area of countryside.
- 38 Based on the submitted documentation I am of the opinion that the training track will be visible and if implemented as submitted, would have a negative impact on the landscape. However, this adverse impact could be mitigated by the implementation of a suitable landscaping scheme along the boundaries of the site which would consist of hedging and tree planting. In this circumstance I consider a suitably worded condition would allow approval of the development.
- 39 While I accept the erection of fencing round the circular element of the track is to be accepted (subject to a suitable design which can be controlled by condition) I have some concerns regarding the impact the erection of multiple fences could have on the whole site. Accordingly, I am of the opinion that this issue should be brought under planning control to ensure landscape value is maintained and that an array of multiple paddocks does not engulf the site.

### **Potential Overgrazing:**

- 40 It is considered that landscape harm could be caused by the keeping/training and/or overgrazing of a large number of horses on this area of land. To limit the potential impact I consider a condition could be attached to any planning consent to ensure the training track and paddock is limited to the horses accommodated within the stables at the racehorse facility which was approved under application 08/02312/FLL.

### **Proliferation of Impermanent Buildings in connection with the Equestrian Uses:**

- 41 In many cases where horses are left to graze in outlying fields, structures may be erected as shelters which are often temporary in character. These can have an adverse impact on the landscape character often due to their ramshackle appearance. To ensure that proliferation of temporary buildings associated with horses does not occur on the application site, it is necessary to condition any consent to ensure that no mobile or temporary structures, buildings or chattels in connection with the equestrian use are placed on the site.

### **Floodlighting:**

- 42 Environmental Health have expressed concerns regarding the potential impact floodlighting could have on the area and have highlighted that a condition should be attached to control this factor. In this case I consider this issue can be controlled through a suitably worded condition. It should be noted that no external lighting is proposed and that any free standing lighting would require planning permission in their own right.

### **Legal Agreements**

- 43 None required

### **Direction by Scottish Ministers**

- 44 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**

- 45 In conclusion, the application must be determined in accordance with the adopted Development Plans unless material considerations indicate otherwise. In this respect, it is considered the change of use from agricultural land to form paddock and training track for race horses is justified and complies with the provisions of the development plan. There are no material considerations that would justify refusing the application. On that basis the application is recommended for approval subject to conditions

## **Recommendation**

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

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 3 That within two months of the approval of this application a detailed landscaping and planting plan shall be submitted and approved in writing by the Council as Planning Authority. These details shall include the location of new trees, shrubs and hedges to mitigate the visual impact along the boundaries of the site which adjoin the A91 and U222 Public Roads. The scheme shall include a schedule of plants to compromise species, plant sizes and proposed numbers and density.
- 4 Thereafter the approved scheme shall be implemented all to the reasonable satisfaction of the Planning Authority within two months of approval unless otherwise agreed in writing.
- 5 Any planting which, within a period of 5 years from the completion of development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.
- 6 This application gives permission for a training track and paddock area which shall only be used in connection with horses stabled on the site and in connection with the approved use of application 08/02312/MOD.
- 7 Notwithstanding the provisions of classes 7 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any other order amending, revoking or re-enacting that order no fences, gates, walls or other means of enclosure shall be erected within the application site as defined in Dwg No: 020-B, Date: Dec 08 without the prior written consent of the Council as Planning Authority.
- 8 Notwithstanding the provisions of Classes 14 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any other order amending, revoking or re-enacting that order no mobile or temporary structures, buildings or chattels in connection with the equestrian use shall be placed on the application site as defined in Dwg No: 020-B, Date: Dec 08 without the prior written consent of the Council as Planning Authority.
- 9 The development shall not be floodlit unless details are submitted to and approved in writing by the Council as Planning Authority.

## **Reasons:**

- 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.
- 2 To ensure that the development is carried out in accordance with the plans approved.
- 3-5 To safeguard the visual appearance of the countryside and ensure the Planning Authority maintains effective control.
- 6 To ensure overuse does not occur thereby adversely affecting the landscape and to ensure the planning Authority maintains effective control.
- 7 To avoid the adverse impact on the landscape which could occur if the open fields are broken up by multiple paddock fences.
- 8 To safeguard the visual appearance of the countryside.
- 9 For the avoidance of any doubt and ensure the proposed development does not prejudice the appearance of the locality.

## **B JUSTIFICATION**

It is considered the change of use to provide paddock and training track for race horses is justified and complies with the provisions of the development plan. Taking this into account the proposal is recommended for approval as there are no material considerations that would justify refusing the application.

## **C PROCEDURAL NOTES**

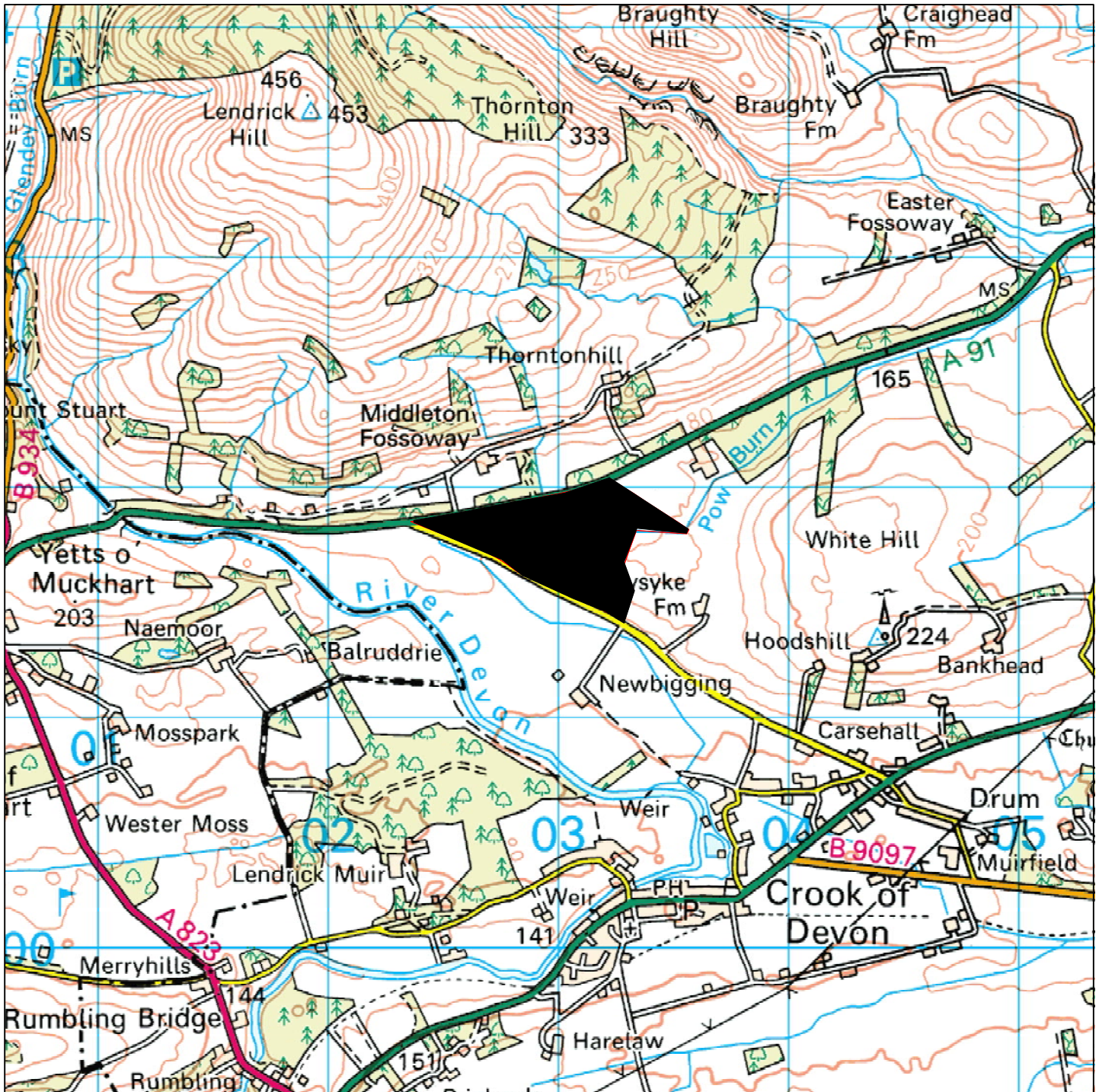
None

## **D INFORMATIVES**

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

Background Papers: 3  
Contact Officer: Nick Brian – Ext 4(75351)  
Date: 19 May 2010

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



Scale : 1:25000

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<b>Organisation</b>	Perth & Kinross Council
<b>Department</b>	Planning
<b>Comments</b>	
<b>Date</b>	13 April 2010
<b>SLA Number</b>	100013289

