

Perth and Kinross Council
Development Management Committee – 15 January 2014
Report of Handling by Development Quality Manager

Variation of condition no 1 of planning consent 05/02418/IPM to extend the time limit for a further 3 years at Morris Leslie, Errol Airfield, Grange, Errol, Perth, PH2 7TB

Ref. No: 13/01823/FLM

Ward No: N1 - Carse

Summary

This report recommends approval of an application for the variation of the time limit condition (condition 1) imposed on an extant planning in principle consent for a sustainable village at Errol Airfield.

BACKGROUND AND PROPOSAL

- 1 The application site covers an area of approx. 43.5 ha of Errol Airfield, a private airfield located NE of the small Carse village of Errol. The site partly comprises land directly associated with the airfield (grassland located adjacent to the runways) and surrounding land which is in agricultural use. The site is perfectly flat, and is essentially a large area of undeveloped grassland / pasture which is set within an industrial environment that is created by the surrounding industrial buildings associated with the commercial operations at the airfield.
- 2 In 2010, the Council granted a planning in principle consent for the erection of a sustainable village comprising a mixed use development of 240 houses, industrial starter units, workshop/warehouses and associated offices, all contained within a structured landscape with significant belts of trees, earth mounding and water features. This approval was granted after the application, had been reported to a number of Council Committees (including full Council), before the Council finally resolved to approve the application, with significant modifications from what was originally submitted. The main modification was reducing the number of residential units from the originally intended 410 to 260.
- 3 This planning application seeks to vary the standard time limit condition which was attached to that consent through a planning application made under Section 42 of the Planning Act. The standard time limit condition which is imposed on the extant planning consent (condition 1) reads:-

Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:

- (i) *the expiration of 3 years from the date of the grant of the planning permission in principle,*

- (ii) *the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or*
 - (iii) *the expiration of 6 months from the date on which an appeal against such refusal was dismissed.*
- 4 The applicant has indicated that they seek to amend the condition to allow for a further three years to submit the required matters required by conditions.
- 5 Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates that in this type of application “the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted”.

PROCEDURAL MATTERS

Pre-application Consultation (PAC)

- 6 As a result of the scale of the development proposed, this planning application is a ‘major’ planning application, under the Town & Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. In most cases, ‘Major’ planning applications must undertake the pre-application consultation process, however the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 which came into force on the 30 June 2013, removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a ‘major planning application’) made on, or after the 3 February 2013.

Environmental Impact Assessment

- 7 It is noted that the Council did not request an Environment Impact Assessment as part of the 2005 planning application. This development is nevertheless significant in terms of its scale and has the potential to have an impact on the local environment, particularly when it is in such close proximity to the River Tay which is environmentally sensitive. Deciding whether or not an Environmental Statement should be submitted as a result of a change or modification to an approved development is a decision which is made by the relevant competent, determining authority, which in this case is the Council. As there are no statutory provisions or procedures on this subject, it is reasonable that the Council should make the decision on whether or not a new environmental statement is required after consideration of the following two questions.
- a) *Is the development proposed significantly different from the original proposal?*
 - b) *Is the environmental effect of the development so significantly different as to change its impact on the environment?*

- 8 The site has not materially changed in terms of its sites characteristics and nor has the surrounding environs become any more (or less) sensitive to the development which is proposed. To this end, the answers to both questions, is 'no' and therefore it is the unequivocal view of the Council (as the component Authority) that an Environmental Statement is not required in this instance.

NATIONAL POLICY and GUIDANCE

- 9 The Scottish Government expresses its planning policies through the National Planning Framework 1& 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

The Scottish Planning Policy 2010

- 10 The 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.
- 11 Of relevance to this application are
- Paragraphs 45 -51: Economic Development
 - Paragraphs 92-97: Rural developments
 - Paragraphs 66-91: Housing

Planning Advice Note 67 (Housing Quality)

- 12 *Designing Places*, published November 2001, sets out the Scottish Governments aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how *Designing Places* should be applied to new housing.

Planning Advice Note 76 (Designing new residential streets)

- 13 This document has been produced in line with the Scottish Governments drive to promote the design agenda. It follows on from *Designing Places* and forms part of the design based series of PANs. In particular, it complements, and should be read in conjunction with, *PAN 67 Housing Quality*. The advice applies to everyone engaged in the planning, design and approval of streets in new residential developments including planners, road engineers, architects and developers. In particular, it means that planners and engineers should work more closely together.

Circular 4/1998 - The use of conditions in planning permissions

- 14 Scottish Government planning Circular 4/1998 - The use of conditions in planning permissions states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The guidance establishes that conditions should meet the following six tests, requiring that they be: necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.
- 15 The Circular also deals with the 'Renewal of permissions before expiry of time-limits' in para. 52. This states that developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 applications for such renewals may be made simply, referring to the existing planning permission, although the Planning Authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:
 - a. there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant road considerations or the issue by the Government of a new planning policy which is material to the renewal application);
 - b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
 - c. the application is premature because the permission still has a reasonable time to run.

DEVELOPMENT PLAN

- 16 The Development Plan for the area consists of the Tayplan 2012 and the Adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).

TAY plan Strategic Development Plan 2012

17 Whilst there are no specific policies or strategies specifically relevant to this proposal, as the application simply relates to extending the time period of the consent, nevertheless, the overall vision of the Tay Plan should be noted.

18 The vision set out in the TAYplan states that:

“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”

Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000)

19 Within the local Plan, the site lies within the landward area, where the following policies are applicable:-

Policy 1 : General Landward

20 Apply throughout the Landward area and in particular stipulates siting criteria to assist the integration of development sites within rural landscapes with particular regard to visual impact, residential amenity, suitable access to road network and available services.

Policies 19 & 20 : Nature Conservation

21 Seeks to ensure that protected species, protected habitats and environmentally sensitive areas are protected from inappropriate and insensitive developments.

Policy 32 : Housing in the Countryside

22 The Local Plan version of the Housing in the Countryside Policy which has effectively been replaced by the Housing in the Countryside Guide 2012.

Policy 37 : Errol Airfield

23 This policy states that the Council will investigate the potential for industrial, business and aviation uses at Errol Airfield.

PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012

24 On the 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading following which a report was published on 11 October 2013 containing the Reporter's recommendations. The Council has a three month period to consider the Reporter's recommendations and the

modified Plan will be published by 11 January 2014. This will be the Plan that the Council intends to adopt, subject to agreement by Scottish Ministers. Prior to adoption, the Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.

- 25 Under the LDP, the site lies within the extended settlement boundary of Errol, where **Policy RD1** is directly applicable. .

Policy RD1: Residential Areas

- 26 This policy seeks to ensure (amongst other things) that all new developments within settlement boundaries do not have an adverse impact on the existing residential amenity of the area and that new uses are compatible with existing uses.

In addition to Policy RD1, the following other Policies are also applicable.

Policy RD4: Affordable Housing

- 27 Residential development, including conversions, consisting of 5 or more units should include provision of an affordable housing contribution amounting to an equivalent of 25% of the total number of units proposed. Whenever practical, the affordable housing should be integrated with and indistinguishable from the market housing. If the provision of the affordable housing on-site is not possible the Council will seek off-site provision. Failing that, and in appropriate circumstances, a commuted sum will be required from developers. The details of provision, including tenure, house size and type, will be a matter for agreement between the developer and the Council and based upon local housing need and individual site characteristics.

Policy CF1: Open Space Retention and Provision

- 28 Council will seek the provision of appropriate areas of informal and formal open space that is accessible to all users as an integral part of any new development where existing provision is not adequate. Where it is physically impossible or inappropriate to meet the open space provision onsite, consideration may be given to the provision of a suitable alternative. In areas where there is an adequate quantity of accessible open space in a locality, a financial contribution towards improvement or management of existing open space may be considered an acceptable alternative.

Policy HE1B: Non-Designated Archaeology

- 29 The Council will seek to protect areas or sites of known archaeological interest and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ. Where, in exceptional circumstances, preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to the granting

of planning permission, will be required to make provision for the survey, excavation, recording and analysis of threatened features prior to development commencing. If discoveries are made during any development, work should be suspended, the local planning authority should be informed immediately and mitigation measures should be agreed.

Policy NE1: Environment and Conservation Policies

- 30 Development which would affect an area designated as being of local nature conservation or geological interest will not normally be permitted, except where the Council as Planning Authority is satisfied that:(a) the objectives of designation and the overall integrity of the designated area would not be compromised; or (b) any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

Policy NE3: Biodiversity

- 31 The Council will seek to protect and enhance all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species. The Council will apply the principles of the Tayside Biodiversity Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) when making decisions about all applications for development. Proposals that have a detrimental impact on the ability to achieve the guidelines and actions identified in these documents will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated.

Policy EP5: Nuisance from Artificial Light and Light Pollution

- 32 The Council's priority will be to prevent a statutory nuisance from occurring first and foremost. Consent will not be granted for proposals where the lighting would result in obtrusive and/or intrusive effects. Proposed lighting equipment should comply with current standards, including approved design standards. The Council may secure the regulation of lighting installations and their maintenance through the use of conditions attached to the granting of planning permission.

Policy EP8: Noise Pollution

- 33 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation. In exceptional circumstances, where it is not feasible or is undesirable to separate noisy land uses from noise sensitive uses, or to mitigate the adverse effects of the noise through the negotiation of design solutions, the Council may use conditions attached to the granting of planning consent, or if necessary planning agreements, in order to control noise levels. A Noise Impact Assessment will be required for those development proposals where it is anticipated that a noise problem is likely to occur.

- 34 In addition to this, the site has been identified as having an approved residential application which could provide additional employment and housing opportunities for Errol.

PLANNING SITE HISTORY

- 35 A planning in principle consent for a sustainable village incorporating residential uses and an element of commercial uses was approved by the Council on the 11 October 2010 (05/02418/IPM).

CONSULTATIONS

- 36 **Scottish Water** have commented on the planning application and raised no objections
- 37 **SNH** have commented on the planning application and raised no objections.
- 38 **Transport Scotland** have commented on the planning application and raised no objections.
- 39 **Network Rail** have commented on the planning application and raised no objection.
- 40 **Environmental Health Manager** has commented on the planning application and raised no objections.
- 41 **The Executive Director of Education & Children Services** has indicated that the local primary School (Errol) is operating at over its capacity and that an education contribution should be sought for this development.

REPRESENTATIONS

- 42 Two letters of representations have been received. The main issues raised within the representations are,
- Proposal is contrary to the Development Plan
 - Drainage issues
 - Road issues
 - Flooding issues
 - Developer Contributions
 - Safety Concerns regarding the rail level crossing

These issues are addressed in the main section of the report.

ADDITIONAL STATEMENTS

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| Environment Statement | Not required. |
| Screening Opinion | Carried out as part of the 2005 application. |
| Environmental Impact Assessment | Not required. |
| Appropriate Assessment | Carried out as part of the 2005 application. |
| Design Statement / Design and Access Statement | Not required |
| Report on Impact or Potential Impact | Traffic Impact Assessment and Environmental Report submitted as part of the 2005 application. |

APPRAISAL

- 43 Section 42 of the Town and Country Planning (Scotland) Act 1997 enables the determination of applications to develop land without compliance with conditions previously attached. The legislation specifies that on such an application the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 44 Taking the above into account, the assessment of this application therefore only relates to the time limit stipulated in condition no. 1 of the extant planning permission and whether or not to allow the time period in which development can commence to be extended.
- 45 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 Development Plan consists of the TAYplan 2012 and the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), whilst the Local Development Plan 2012 is a significant material consideration in the determination of this application.
- 46 To this end, the determining issue as to whether or not the time period should be extended is ultimately whether or not the policy framework of the Council has materially changed enough for the Council to consider a different recommendation. For reasons stated below, whilst I consider there to be a material change in Council policy since the determination of the 2005 application took place, the overall themes, aims and aspirations of Council policy has not. To this end, I therefore ultimately recommend that the time period be extended.

Policy

- 47 The planning application for the sustainable village is considered to be unsustainable in this rural location, and its development would be contrary to the adopted Local Plan and National Planning Guidance. However, an application for this development was approved by the Council in 2010 on the basis that the perceived economic and employment related benefits which the proposal would bring to the local area outweighed the specific land use planning policies.
- 48 In terms of the proposed Local Development Plan 2012 (LDP), this plan acknowledges the existence of the extant consent by including the site and the airfield within the settlement boundary of Errol. In this respect, whilst the proposal was significantly contrary to the previous Local Plan, the proposal is (in land use terms) entirely in line with the LDP insofar as still requiring appropriate details to be agreed, wherein the proposal would be consistent with requirements of Policy RD1, which seeks (amongst other things) to ensure that new developments within existing settlements do not have an adverse impact on the character of amenity of the area concerned.
- 49 Whilst it is highly likely that the inclusion of the site within the settlement boundary of Errol would not have occurred had there had not been an extant planning permission in place, the site is within the settlement boundary of Errol in the LDP, which is now a significant material consideration considering the Plan's advanced stage.
- 50 Whilst I still have reservations regarding the nature of the proposal, and its sustainability in this location, the relatively recent decision by the Council to approve the original application is a significant material planning consideration, which is made even more significant by its compliance with the LDP.
- 51 As this development is intrinsically linked to both the housing and construction industries, both of which have been significantly affected by the recent (and ongoing) economic downturn, I consider that the provision of an additional two years through the s42 process to be appropriate to help bring the detailed elements of this site forward. I note that the applicant has applied for a further 3 years, however it is the working practice of the Council not to grant a full 3 years to applications made under the s42 process as that is more appropriately dealt through an application for a full renewal of the consent and would in such circumstances attract a far higher application fee.

Economic Development

- 52 Due to the significant nature of the proposal, it is likely that the development if implemented would have a significant and positive impact on the local economy, both during the construction phase and once completed.

Content of the Legal Agreement / Level of Financial contributions

- 53 As part of the 2005 planning application, the applicant signed a legal agreement which secured the delayed payment of financial contributions in relation to primary education and community benefits. As per the working practice of the Council, renewals or planning applications made under s42 of the planning act are not subject to a re-assessment of primary education contributions.
- 54 In terms of the financial contribution for the community this was specifically ring fenced to be used solely for the purposes of extending the Errol Village Hall. A small extension to the hall has recently been completed, however the Errol Community Association have indicated that they have further plans for a second extension to the building. To this end, there is no need to review the content of the legal agreement at this present time; however this position will be reviewed at the time when subsequent reserved matters application(s) are submitted to the Council.

Drainage Issues

- 55 Within the representations concerns have been raised regarding waste water drainage. At the present time, the village of Errol is publicly seweraged, however it is my understanding that the public system does not cover the area of Errol Airfield. It is nevertheless the intention of the applicant to connect to the public system, which is what would be expected considering the size of the development proposed. It is therefore a matter for the applicant and Scottish Water to agree how best to drain the site and this will only be advanced when an application is made to Scottish Water to connect to their assets. Whilst the connection to existing infrastructure and the potential upgrade of the existing treatment plant are expensive processes, they are nevertheless issues for the applicant to address.

Flooding Issues

- 56 Within the representations concerns have been raised regarding flooding issues associated with the development. There are no new flooding issues arising which were not considered during the assessment of the 2005 application, and to this end I see no reason to reassess this issue. In addition, I note that SEPA have raised no objection to the planning application.

Safety Concerns regarding the Level Crossing

- 57 Within the representations concerns have been raised regarding the increase usage over local level crossings. Network Rail have commented on the application and raised no concerns.

LEGAL AGREEMENTS

- 58 An extant legal agreement exists on the land and does not require to be modified to respect the terms of this consent.

DIRECTION BY SCOTTISH MINISTERS

- 59 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

- 60 Bearing in mind the proposed content of the proposed LDP (which supports the proposal), and the fact that there has been no material change in the sites physical characteristics since the previous planning application was approved, I have no objection to offering a two year extension of the original time to allow the development to commence.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The reserved matters relating to planning approval 05/02418/IPM shall be submitted for the approval of the Planning Authority in the form of a written application accompanied by detailed plans not later than:-
- (i) the expiration of 5 years from the date of the original grant of outline planning permission dated the 11 October 2010.
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused, or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed;
- whichever is the latest.

Reason:

- 1 In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.

B JUSTIFICATION

The proposal is considered to be contrary to the Development Plan however there are material reasons which justify approval of the application in terms of the previous approval.

C PROCEDURAL NOTES

None required.

D INFORMATIVES

- 1 The conditions contained in planning permission notice ref. 05/02418/IPM dated 10 October 2010 in respect of the planning in principle consent for the sustainable village at land at Errol Airfield, Errol shall remain in place, except only insofar as expressly modified by Condition No. 1 attached to this planning permission notice.
- 2 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.

Background Papers: Two letters of representations

Contact Officer: Andy Baxter, Ext 75346

Date: 11 December 2013

Nick Brian
Development Quality Manager

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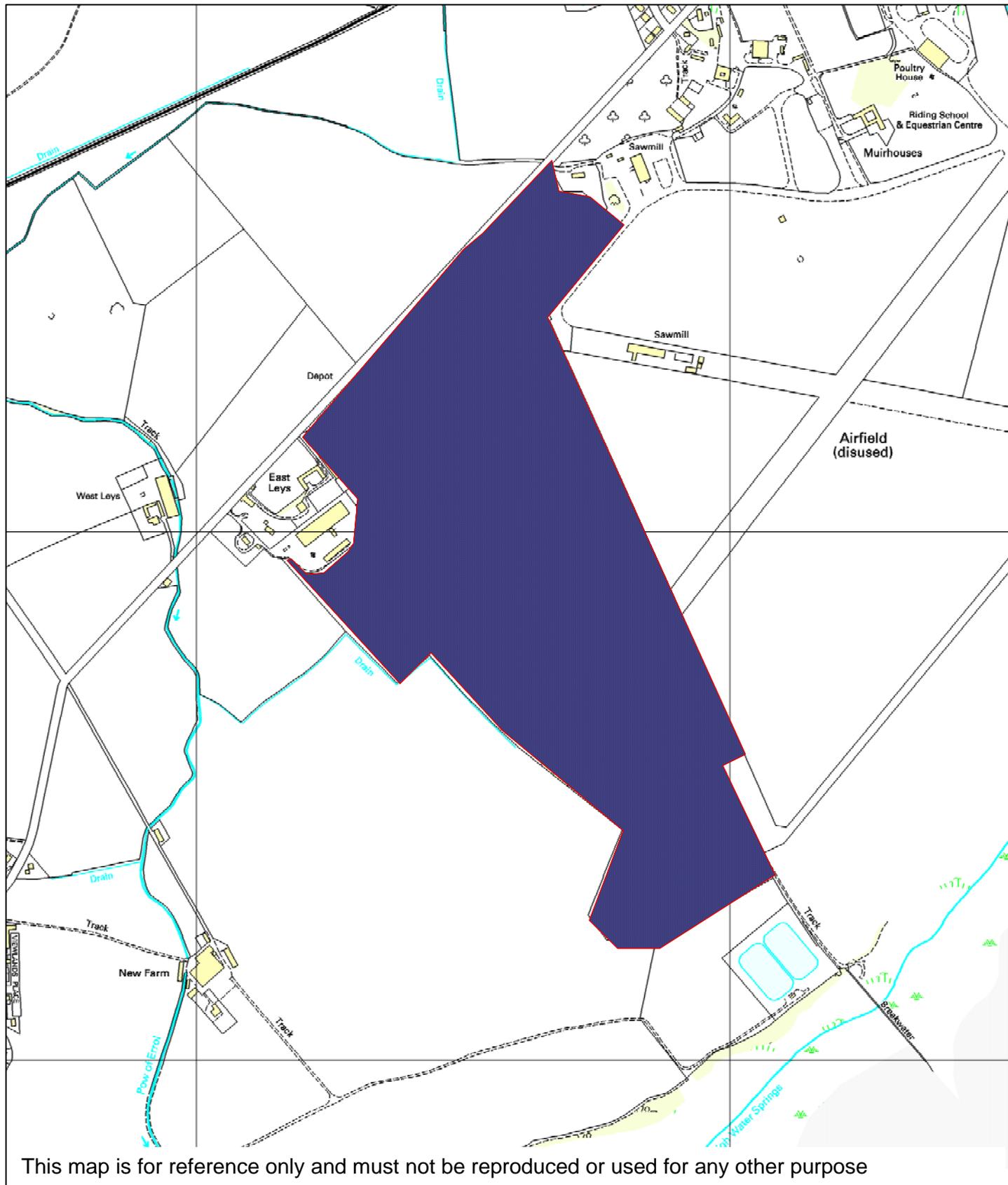
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Perth & Kinross Council

13/01823/FLM

Morris Leslie, Errol Airfield, Grange

Variation of condition no 1 to extend the time limit for a further 3 years



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↑ Scale
1:10000