

Perth and Kinross Council
Development Management Committee – 13 January 2016
Enforcement Report by Development Quality Manager

Formation of five permanent gypsy/travellers pitches at Crookmoss, Crook of Devon, Kinross-shire

Ref. No: 12/00546/FLL
Ward No: 8 – Kinross-shire

Summary

Enforcement update on alleged Breach of Conditions 9, 10, 11, 12, 13 and 14 for the formation of 5 gypsy/travellers pitches

BACKGROUND AND DESCRIPTION

- 1 This application was previously considered by this Committee at its meeting on 16 September 2015 in respect of an update on the enforcement position in relation to conditions attached to the consent and it was remitted to report back again to this Committee at this meeting. The previous Committee report together with a copy of the planning consent notice, setting out the full terms of the conditions, are attached to this report. (Report 15/365 refers – **Appendix 3**)
- 2 Members, in requesting a further update were concerned over the conditions relating to the following areas:
 - (i) Noise
 - (ii) Drainage
 - (iii) Water supply
 - (iv) Access
 - (v) Landscaping
- 3 All other issues in relation to the application and conditions remain the same.

CONSULTATIONS

- 4 Further consultations and discussions have taken place with the Scottish Water and the Council's Environmental Health Officer.

REPRESENTATIONS

- 5 As no re-notification has been carried out there have been no further representations received as a result of the further review period. All representations associated with the original application are as detailed in the original Committee Report.

APPRAISAL

- 6 (i) Noise. No further complaints have been received from neighbouring residential properties. With regards to the siting of the electricity generators, all the occupied pitches now have acoustically insulated housing units for the respective generators. An alternative solution would be for the pitches to have a mains electricity supply and do away with the need for individual generators. This is being progressed with Scottish Power. The requirements of conditions 12 and 13 apply in this instance.
- 7 (ii) Drainage: Following the September Committee Scottish Water were contacted in respect of the likelihood of a mains connection being able to be made available to serve the 5 pitches. The response from Scottish Water stated that the growth project subject to the '5 growth criteria' would take 2 – 2.5 years from initiation to completion. The interim connection, previously identified, which could facilitate a short-term connection to the public sewer is subject to a flow and load survey which is currently being assessed. Current estimate for completing this survey is February 2016. If an interim connection is feasible then the 12 months identified by the decision of the September Committee meeting, namely by September 2016, should be sufficient to ensure that outstanding matters relative to foul drainage are sufficiently addressed. This would therefore address conditions 9 and 16 with conditions 14 and 17 becoming redundant.
- 8 (iii) Water supply: The positive dialogue with Scottish Water, referred to above, means that the position in respect of water supply should be reviewed pending the outcome of the Scottish Water flow and load survey and therefore over a similar timescale. Conditions 10 and 11 apply in this instance.
- 9 (iv) Access: There is a requirement for the access to be formed and permanently maintained in accordance with specification Type c, Fig 5.7 access detail, under condition 3. Members will recall, from the September Committee, that they requested that the access be treated with a bituminously bound surface by 18 November 2018. The access has, to date, not been treated with such a surface. However, Transport Planning remain of the view that the surface provided is acceptable. Further works have been carried out to the access and this has now been formed to basecourse. Tar surfacing has been hampered by inclement weather but it is intended to implement as soon as there is a suitable weather. Conditions 3, 4 and 5 apply in this instance.
- 10 (v) Landscaping: Landscaping for the wider site is well underway. This relates principally to the perimeter planting, which is more of a priority for the external appearance of the site. Individual pitch landscaping is also underway where pitches are occupied. However, all the landscaping is being monitored to ensure that it is completed and maintained thereafter to satisfy condition 15.

ADDITIONAL INFORMATION

- 11 Paddock: Members should note a Planning Application has been submitted for the area of ground between the consented pitches and the road frontage under ref;

15/02078/FLL for change of use from paddock to form 3 gypsy/traveller pitches and erection of a fence (in retrospect). This area of ground was subject to condition 8.

CONCLUSION AND RECOMMENDATION

- 12 There has been clear progress in the key areas of concern in relation to compliance with the conditions attached to the consent and in particular those conditions highlighted at the September meeting of this Committee. The 2 priority areas are viewed as being in relation to noise and drainage with the latter influencing several of the conditions applied and as set out above. The provision of a mains connection would address these conditions accordingly. The timescales for compliance with conditions, set out by Members at the September Committee, are still on track and therefore Members are requested to note the progress to date.

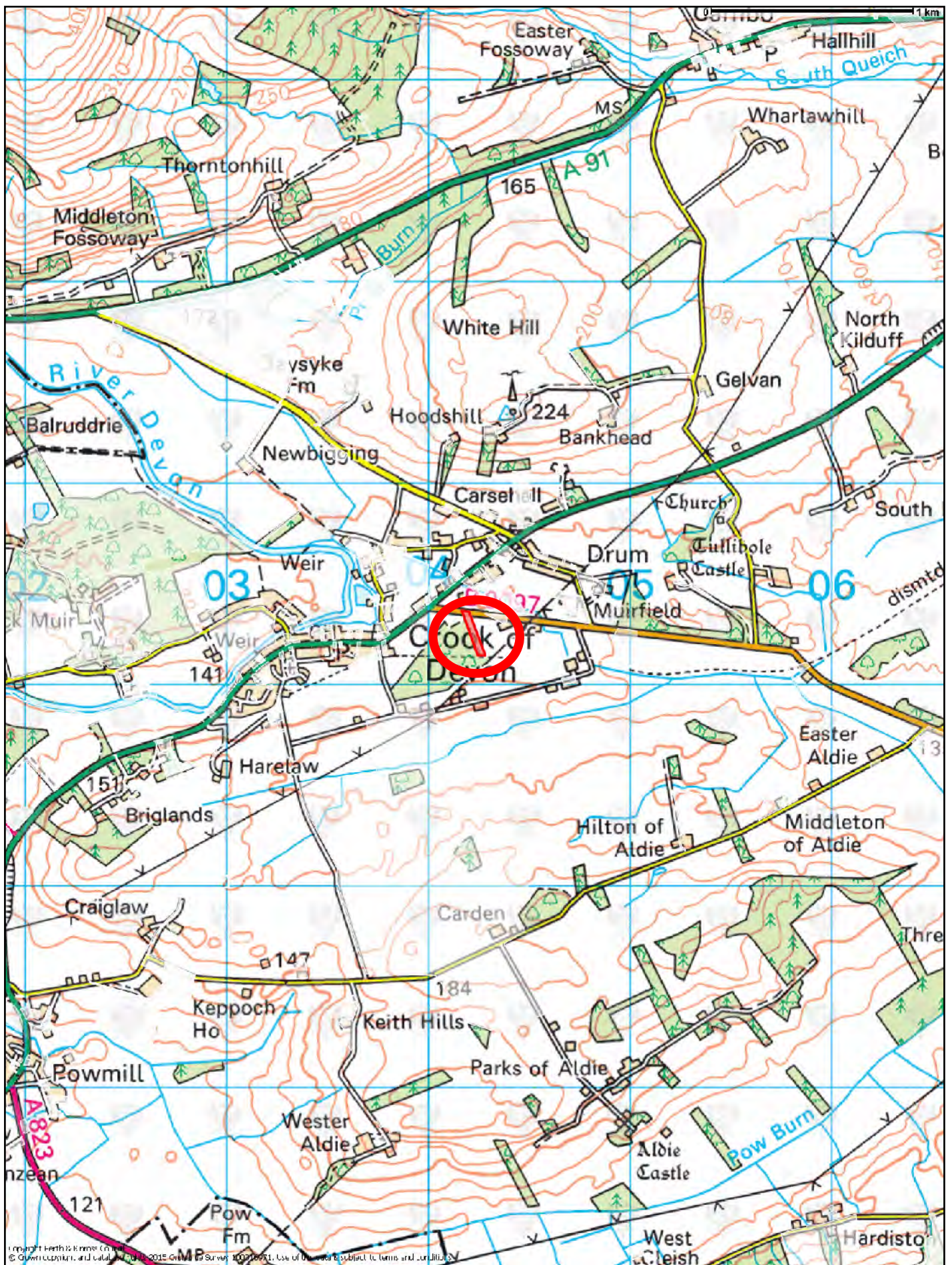
Background papers: None
Contact Officer: Eddie Jordan – Ext 75341
Date: 17 December 2015

NICK BRIAN
DEVELOPMENT QUALITY MANAGER

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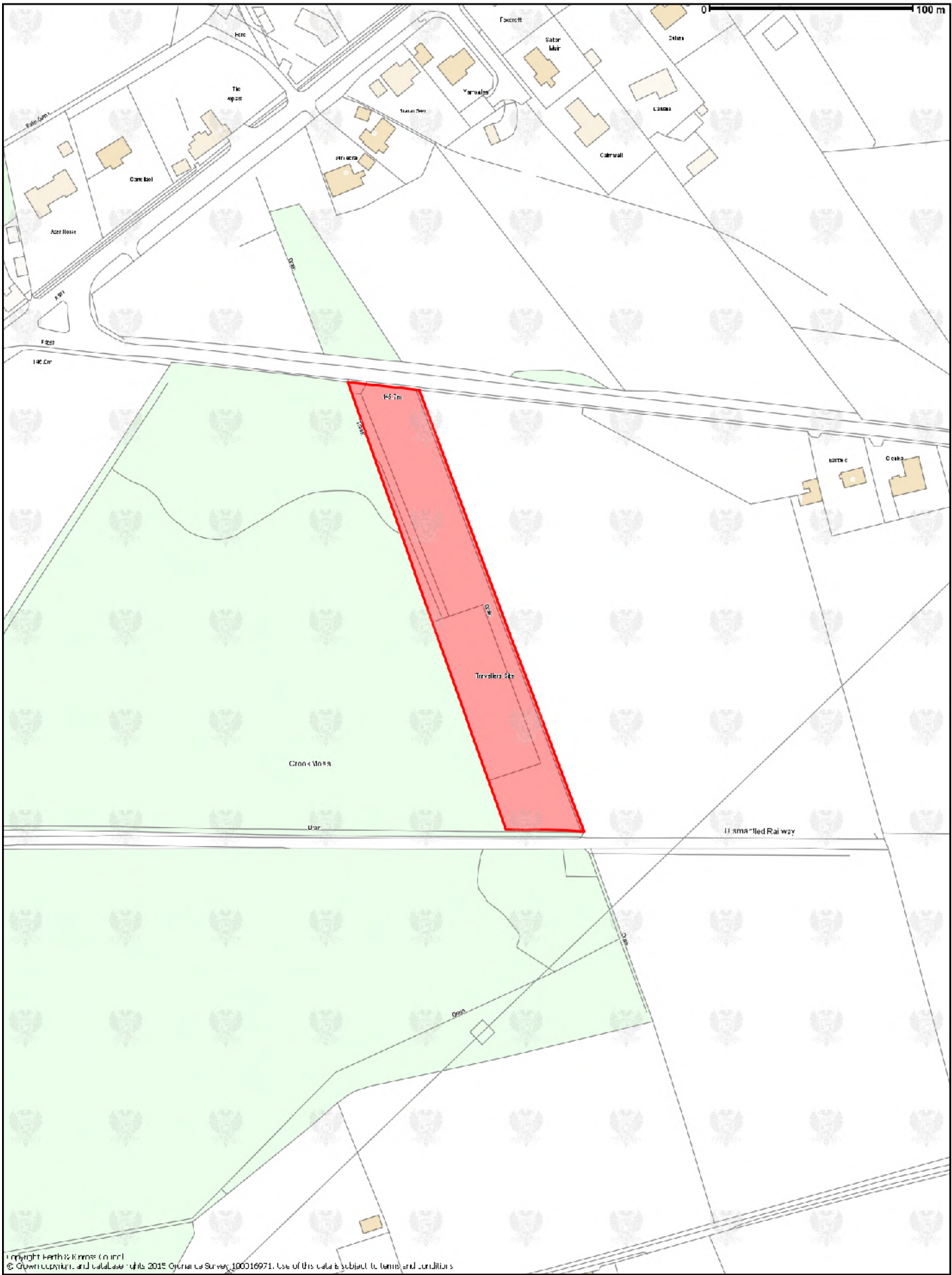
Scale 1:25000

12/00546/FLL

Formation of five permanent gypsy/traveller pitches (partly in retrospect) at Land South East of Fossoway Garage, Fossoway



Development Management Committee



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Development Management Committee



12/00546/FLL

Formation of five permanent gypsy/traveller pitches (partly in retrospect) Land South East of Fossaway Garage, Fossaway



PERTH AND KINROSS COUNCIL

Messers James Johnstone And Mathew MacDonald
Mr Forbes Rowan-Spencer Marr
Architect And Town Planning Consultant
16 Craiglockart Road
Edinburgh
EH14 1HL

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 10 October 2013

Town and Country Planning (Scotland) Acts.

Application Number **12/00546/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 27th March 2012 for planning permission for Formation of five permanent gypsy/traveller pitches (partly in retrospect) Land 300 Metres South East Of Fossoway Garage Fossoway subject to the undernoted conditions.

Development Quality Manager

Conditions Referred to Above

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
2. Prior to any further work taking place on the site and within 2 months of the date of this planning consent, the applicant shall submit details of a suitable SUDS scheme, to be implemented alongside the foul drainage infrastructure, all for the approval of the Planning Authority.
3. Within 2 months of the date of this planning consent the vehicular access shall be formed and permanently maintained in accordance with specification Type C, Fig 5.7 access detail to the satisfaction of the Planning Authority.
4. Within 2 months of the date of this planning consent the access shall be provided with a bitumenously bound surface and maintained as so to the satisfaction of the Planning Authority
5. The gradient of the access shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.
6. Within 2 months of the date of this consent turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear and shall be permanently maintained so to the satisfaction of this council as planning authority.

7. Within 2 months of the date of this consent a minimum of 2 No. car parking spaces per pitch shall be provided within the site and shall be permanently maintained so to the satisfaction of this council as planning authority.
8. The area of land directly adjacent and to the north of the application site which is within the applicants' ownership and indicated as a paddock area, shall remain as such and shall not be used for any other purpose unless otherwise agreed in writing with the Planning Authority.
9. The wastewater treatment facility and associated drainage, storage and pumping installations shall be designed, operated and maintained such that noise and/or odour, therefrom, are not perceptible in any nearby domestic property.
10. A water supply complying with the appropriate British Standard and in accordance with Scottish Water Byelaws currently in force, or where applicable the Private Water Supply (Scotland) Regulations 2006, shall be provided on the site as soon as practicable. Water supply to caravans shall be supplied through pipes not less than 12.5mm in diameter and approved by the Planning Authority.
11. With regard to the residential caravans, a supply of pure and wholesome water complying with the Water Supply (Water Quality) Regulations 2000, or where applicable the Private Water Supply (Scotland) Regulations 2006, shall be provided and shall be connected to all washing and sanitary facilities within the residential caravans as soon as is practicable to the satisfaction of the Planning Authority. Adequate precautions shall be taken (or cause to be taken) to protect all service water pipes between the connection to the water main and fittings within the caravans, all to the satisfaction of the Planning Authority
12. All plant or equipment associated with operation of the site shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/or calculated and plotted on a rating curve chart.
13. Each of the five gypsy/traveller pitches should have in place a suitably enclosed and acoustically insulated fixed housing unit in which to install any generator brought onto site to the satisfaction of the Planning Authority. This should be installed within 3 months of the date of this consent unless otherwise agreed in writing with the Planning Authority.
14. The private waste water treatment plant and surface water discharge proposals shall be carried out in accordance with Resource & Environmental Consultants Ltd Drainage Assessment dated May 2013 and carried out within the timescale indicated under condition 16 of this consent, that is only after the foul drainage infrastructure has been installed at Harelaw Farm, all to the satisfaction of the Planning Authority.
15. The landscaping proposals including tree and hedge planting shall be implemented within 6 months of the date of this consent or within the first planting season and thereafter maintained to the satisfaction of the Planning Authority.
16. The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation as outlined in the Drainage Assessment attached to this consent carried out by REC and dated May 2013 and confirmed by SEPA and SNH as satisfactory shall be installed at Harelaw Farm prior to the foul drainage infrastructure becoming operational at the development site and within 3 months of the date of this consent. For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained thereafter all to the reasonable satisfaction of the Planning Authority.

17. Prior to the drainage infrastructure becoming fully operational at the development site the applicant shall submit to the Planning Authority an approved CAR licence under the Water Environmental (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project and that the Planning Authority has confirmed receipt of this licence in writing.

Reasons for Conditions

1. To ensure that the development is carried out in accordance with the plans approved.
2. In the interests of environmental quality and surface water mitigation
- 3-7. In the interests of traffic and pedestrian safety.
8. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 9-12. In the interests of residential amenity.
13. In the interests of environmental quality.
- 14-15. In the interests of environmental quality and visual amenity.
16. To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with the Kinross Area Local Plan 2004 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.
17. To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with the Kinross Area Local Plan 2004 and Enterprise and Infrastructure Committee Resolution of 28 August 2013

Justification

The proposal is considered to comply with the Development Plan and there are material considerations available which add weight to a recommendation of approval.

Notes

- 1 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 2 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 :
 - o Displayed in a prominent place at or in the vicinity of the site of the development
 - o Readily visible to the public
 - o Printed on durable material

- 3 The application site will require a caravan site licence in terms of the Caravan Sites and Control of Development Act 1960.
- 4 A Building Warrant will be required for this proposal.
- 5 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan Reference

12/00546/1

12/00546/2

12/00546/3

12/00546/4

Perth and Kinross Council

NOTICE OF INITIATION OF DEVELOPMENT

**The Town and Country Planning (Scotland) Act 1997 as amended
The Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2008**

A person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable and, in any case, before the development commences. This ensures that the planning authority is aware that development is underway, and can follow up on any suspensive conditions attached to a planning permission. Failure to do so will be a breach of planning control under section 123(1) of the above Act.

Before any work starts on site please complete the form below and return it to:

**Development Management
The Environment Service
Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth PH1 5GD**

Application Reference Number	12/00546/FLL
Date of issue of consent	10 October 2013
Date works are to commence	
Proposal	Formation of five permanent gypsy/traveller pitches (partly in retrospect)
Name & address of developer	.
Name & address of landowner (if a different person)	
Name & address of site agent	

Perth and Kinross Council

NOTICE OF COMPLETION OF DEVELOPMENT

**The Town and Country Planning (Scotland) Act 1997 as amended
The Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2008**

A person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. If the planning consent is for a phased development, notice of the completion of each phase must be notified to the planning authority.

As soon as the development (or phase of development) is completed please therefore complete the form below and return it to:

**Development Management
The Environment Service
Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth PH1 5GD**

Application Reference Number	12/00546/FLL
Date of issue of consent	10 October 2013
Date works were completed	
Proposal	Formation of five permanent gypsy/traveller pitches (partly in retrospect)
Name & address of developer	.
Name & address of landowner (if a different person)	
Name & address of site agent	

Perth and Kinross Council
Development Management Committee – 16 September 2015
Enforcement Report by Development Quality Manager

Enforcement Status, Crookmoss, Crook of Devon, Kinross-shire

Ref. No: 12/00546/FLL
 Ward No: 8 – Kinross-shire

Summary

Alleged Breach of Conditions 9, 10, 11, 12, 13 and 14 Land 300 Metres South East Of Fossoway Garage, Fossoway.

LPA ref 12/00546/FLL

BACKGROUND AND DESCRIPTION

- 1 Planning consent was granted for the formation of five permanent gypsy/traveller pitches (partly in retrospect) subject to 17 planning conditions on 13 October 2013. This is a report setting out the latest position on enforcement in relation to the consent and the conditions imposed.
- 2 A previous report regarding the enforcement status was presented to Development Management Committee in March of 2015 (Report 15/122 refers). A further report was requested by Members in 6 months to update on the status and progress in respect of the conditions and in particular where there has been or is likely to be a requirement for further enforcement action. This report therefore represents that update. The committee report relative to the planning consent is attached as an appendix to this report for information (Report 13/487 refers – **Appendix 1**).

POLICY FRAMEWORK AND GUIDANCE

- 3 The policy framework and guidance remain the same as when the previous report was presented to Committee.

CONDITIONS ATTACHED TO CONSENT REF: 12/00546/FLL

- 4 In granting consent for the development, 17 conditions were imposed and these are listed below with a corresponding comment as to their current status and in particular in relation to the enforcement position (for clarification, where a condition refers to *within 2 months of the date of the consent* then that compliance date was 10 December 2013).

Conditions

1. *The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.*

As the development has not been completed this condition is yet to be fulfilled. There is no requirement in this condition with regard to the time for completion and therefore it is not breached.

2. *Prior to any further work taking place on the site and within 2 months of the date of this planning consent the applicant shall submit details of a suitable SUDS scheme, to be implemented alongside the foul drainage infrastructure, all for the approval of the Planning Authority.*

This information has been submitted and approved and therefore the suspensive element of this condition has been satisfied. The condition requires the implementation of the SUDS scheme concurrently with the foul drainage infrastructure. The foul drainage infrastructure is the subject of formal enforcement proceedings relative to conditions 14 and 16. This condition will only be in breach if the foul drainage is implemented without the approved SUDS scheme.

3. *Within 2 months of the date of this planning consent the vehicular access shall be formed and permanently maintained in accordance with specification Type C, Fig 5.7 access detail to the satisfaction of the Planning Authority.*

Transport Planning have confirmed that the access geometry is satisfactory and meets the terms of this condition.

4. *Within 2 months of the date of this planning consent the access shall be provided with a bitumenously bound surface and maintained as so to the satisfaction of the Planning Authority.*

This condition has been partially implemented as the access has not been bitumenously bound. Under s124 (3) of the Town and Country Planning (Scotland) Act 1997 relative to time limits for enforcement, the Planning Authority has 10 years from the date of the breach to pursue this matter. The access to date has not had an impact on the public road network and has not been the subject of any complaints. However, as the condition requires ongoing maintenance then it lies with the Planning Authority to require future works to be done where required.

5. *The gradient of the access shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.*

This condition is not in breach as the gradient conforms with the terms of the consent.

6. *Within 2 months of the date of this consent turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear and shall be permanently maintained so to the satisfaction of this Council as Planning Authority.*

This condition is not in breach as the turning facilities conform with the terms of the consent.

7. *Within 2 months of the date of this consent a minimum of 2 No. car parking spaces per pitch shall be provided within the site and shall be permanently maintained so to the satisfaction of this Council as Planning Authority.*

This condition is not in breach as the parking provision conforms with the terms of the consent.

8. *The area of land directly adjacent and to the north of the application site which is within the applicants' ownership and indicated as a paddock area, shall remain as such and shall not be used for any other purpose unless otherwise agreed in writing with the Planning Authority.*

The land identified in this condition is no longer within the applicant's control and is not owned by any of the occupants of the pitches. This condition has been breached by the formation of what appears to be 3 further gypsy traveller pitches. As the residents no longer have control of this land there is no merit in attempting to deal with this with a Breach of Condition Notice served on the occupants of the pitches. This must be dealt with as an unauthorised development and in this regard is subject to new enforcement proceedings. A Temporary Stop Notice (TSN) and a notice under Section 272 of the Town and Country Planning (Scotland) Act 1997: Notices requesting information as to interests in land (s272) have been served. These notices were served by hand on 11 August 2015. The TSN expires on 8 September 2015 and the s272 Notice requires a response by 10 September 2015. It is the intention to serve an Enforcement Notice on the party/parties responsible for this breach.

9. *The wastewater treatment facility and associated drainage, storage and pumping installations shall be designed, operated and maintained such that noise and/or odour, therefrom, are not perceptible in any nearby domestic property.*

The foul drainage infrastructure is the subject of formal enforcement proceedings relative to conditions 14 and 16. This condition relates to an ongoing maintenance requirement and shall endure for the life of the consent whether or not this is a private or public sewer. This particular condition is not being breached.

10. *A water supply complying with the appropriate British Standard and in accordance with Scottish Water Byelaws currently in force, or where applicable the Private Water Supply (Scotland) Regulations 2006, shall be provided on the site as soon as practicable. Water supply to caravans shall be supplied through pipes not less than 12.5mm in diameter and approved by the Planning Authority.*

This is the subject of formal enforcement action. A Breach of Condition Notice was served by the Planning Authority on 9 April 2014. The compliance period in the notice stipulated 9 months and this date has now passed. The residents have applied for mains water connection to the site but there appeared to be a lack of progress the

reasons for which had not been entirely clear. This has been the subject of positive discussion between the Planning Authority and Scottish Water following a meeting with Scottish Water on 27 August 2015 and I am reasonably confident that this condition can and will be complied with.

11. *With regard to the residential caravans, a supply of pure and wholesome water complying with the Water Supply (Water Quality) Regulations 2000, or where applicable the Private Water Supply (Scotland) Regulations 2006, shall be provided and shall be connected to all washing and sanitary facilities within the residential caravans as soon as is practicable to the satisfaction of the Planning Authority. Adequate precautions shall be taken (or cause to be taken) to protect all service water pipes between the connection to the water main and fittings within the caravans, all to the satisfaction of the Planning Authority.*

Subject to formal enforcement action. Breach of Condition Notice served by the Planning Authority on 9 April 2014. The compliance period in the notice stipulated 9 months, this date has now passed. The residents have applied for mains water connection to the site. There have been no complaints to Environmental Health with regards to this condition to date. As with condition 10, this has been the subject of positive discussion between the Planning Authority and Scottish Water. As with condition 10 above there is a confidence that this can be resolved.

12. *All plant or equipment associated with operation of the site shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/or calculated and plotted on a rating curve chart.*

This condition has an ongoing compliance requirement and endures for the life of the consent. There have been several complaints relating to an alleged breach of this condition but as yet, no breach has been verified. Another complaint had been received but the complainant has declined to have noise monitors installed in their property.

In clarification, prior to the approval of the planning application to which this condition relates, a complaint of Statutory Noise Nuisance was raised with Environmental Health and verified in January 2013. The offending generator was moved to a new location thus resolving the complaint. A key consideration here is the specific positioning of generators and ensuring that they are not on the raised ground but take advantage of the baffling provided by the banking.

13. *Each of the five gypsy/traveller pitches should have in place a suitably enclosed and acoustically insulated fixed housing unit in which to install any generator brought onto site to the satisfaction of the Planning Authority. This should be installed within 3 months of the date of this consent unless otherwise agreed in writing with the Planning Authority.*

Since the March Committee report, compliance with this condition has been actively pursued in relation to each breach identified. When new residents arrive on site they are not necessarily being made aware of this condition's requirement. As we become aware of a generator in breach, the offending generator is identified with the resident and remedied promptly by either moving the generator down the embankment or enclosing the generator in an acoustic housing. No formal enforcement action has been necessary in this regard as each incident has been dealt with as it arises. However, an approach to be taken would be for the acoustic housing to be provided in a lower position for each pitch and left in situ so that any future occupants would have a clearly defined position identified and with the potential to minimise the noise therefrom.

14. *The private waste water treatment plant and surface water discharge proposals shall be carried out in accordance with Resource & Environmental Consultants Ltd Drainage Assessment dated May 2013 and carried out within the timescale indicated under condition 16 of this consent, that is only after the foul drainage infrastructure has been installed at Harelaw Farm, all to the satisfaction of the Planning Authority.*

Subject to formal enforcement action. Breach of Condition Notice served by the Planning Authority on 9 April 2014. A compliance period stipulated 6 months and this date has now clearly passed. SEPA have now confirmed that it is unlikely Condition 17 can be satisfied. It is therefore our view that unless the residents can secure a connection to the public sewer this condition will never be satisfied. Meetings with Scottish Water have been productive and we are confident of a positive outcome in relation to a mains sewer connection. If the residents manage to secure mains sewer connection this condition would no longer be applicable and therefore would not be subject to further enforcement proceedings. The Breach of Condition Notice served would be formally withdrawn.

15. *The landscaping proposals including tree and hedge planting shall be implemented within 6 months of the date of this consent or within the first planting season and thereafter maintained to the satisfaction of the Planning Authority.*

This condition is in breach but, to date, formal enforcement action has not been taken. Since the March Committee report we have been actively pursuing this with the residents to carry out their respective landscaping. This has now been satisfactorily implemented on pitches 2 and 5. Pitches 3 and 4 have been vacated with pitch 3 having a new resident move-in in June/July. Pitch 1 has never been occupied. The communal landscaping required along the frontage of the site had begun when works commenced relative to the 3 additional unauthorised pitches on the paddock in breach of Condition 8. This work has now stopped until enforcement action relative to this breach is concluded.

16. *The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation as outlined in the Drainage Assessment attached to this consent carried out by REC and dated May 2013 and confirmed by SEPA and SNH as satisfactory shall be installed at Harelaw Farm prior to the foul drainage*

infrastructure becoming operational at the development site and within 3 months of the date of this consent. For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained thereafter all to the reasonable satisfaction of the Planning Authority.

This is subject to formal enforcement action. Breach of Condition Notice served by the Planning Authority on 9 April 2014. A compliance period stipulated 6 months and this date has now passed. Following subsequent discussions, SEPA have confirmed that it is unlikely Condition 17 can be satisfied with regard to the gypsy traveller pitches. The CAR Licence application for mitigation at Harelaw has therefore been withdrawn. Meetings with Scottish Water have been productive and we are confident of a positive outcome in relation to a mains sewer connection. If the residents manage to secure mains sewer connection this condition would no longer be applicable and therefore would not be subject to further enforcement proceedings. The Breach of Condition Notice served would be formally withdrawn.

17. Prior to the drainage infrastructure becoming fully operational at the development site the applicant shall submit to the Planning Authority an approved CAR licence under the Water Environmental (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project and that the Planning Authority has confirmed receipt of this licence in writing.

As stated relative to Conditions 14 and 16 SEPA have confirmed that it is unlikely Condition 17 can be satisfied. Our current position is, that as a consequence of the applicant's failure to secure a CAR Licence, the only alternative for drainage for the site is for Scottish Water to permit connection to the Public Sewer.

CONCLUSION AND RECOMMENDATION

- 5 The Enforcement Officer (EO) is yet to meet with the new owner at pitch 3 and confirm the Planning Authority's position in relation to all conditions on the consent. However, the EO will attempt to engage positively with the new owner of pitch 3 to provide appropriate direction to them on all matters relative to planning conditions applicable to that pitch, particularly those which are in breach.
- 6 With regard to Conditions 10 and 11 we have engaged in positive dialogue and had a productive meeting with Scottish Water. The position relative to mains water supply should be reviewed in a further 12 months.
- 7 As stated in relation to Conditions 14, 16 and 17, these conditions are unlikely to be fulfilled and as such, alternative infrastructure must be found. To this end, we have therefore engaged in positive dialogue and had a productive meeting with Scottish Water. Under Directions issued by Scottish Ministers through *Environmental Protection Water Supply The Scottish Water (Objectives: 2015 to 2021) Directions 2014* and *Schedule 4 (4)* contained therein; Scottish Water must ensure that such strategic assets are delivered in support of committed development so as to minimise the likelihood of redundant assets. On this basis a public sewer and water connection is thought to be forthcoming. The Planning Authority will continue to

engage positively with Scottish Water and the Gypsy/Travellers to ensure delivery of connection to the mains sewer timeously. However, a realistic timescale is anticipated as being 12 months but there is however the possibility of an interim connection.

- 8 In relation to Conditions 12 and 13 the Gypsy/Travellers are still awaiting confirmation of their electricity supply being connected to the national grid. Conditions 12 and 13 would remain enforceable relative to the transient nature of Gypsy/Travellers and where vacant pitches may be utilised for shorter periods. Investigation of complaints relative to Condition 12 continue as and when they arise together with ongoing monitoring in relation to Condition 13. However, acoustic screenings could be provided permanently in agreed positions for each pitch rather than changing for each new occupant .
- 9 However, notwithstanding the above positions and potential route to solutions, Members should be aware of a 'whole' site solution to address the breach of conditions in total. This is effectively where a further period for compliance with the conditions would not be allowed. Essentially, therefore, this would be that a failure to comply now necessitates serving an Enforcement Notice. This would require the cessation of the use of the site and removal of the development and a return to its former use as an inert waste tip on the basis of failure to comply with planning conditions attached to the consent LPA ref 12/00546/FLL. An Enforcement Notice could be served by the Planning Authority stipulating the removal of all development and caravans. In considering this option I am sure Members would be aware that an Enforcement Notice could be appealed to the Department for Planning and Environmental Appeals. In addition, a key consideration of an appeal would be whether all options for resolving the situation had been exhausted.
- 10 Members are requested to note the recent progress with the respective statutory undertakers and that to take enforcement action now would not allow that to be achieved. Members are therefore requested to agree a further period of 12 months towards achieving mains connections for foul drainage, and water and electricity.

NICK BRIAN
DEVELOPMENT QUALITY MANAGER

Background papers: None
Contact Officer: Eddie Jordan – Ext 75341
Date: 3 September 2015

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