

CLACKMANNANSHIRE COUNCIL

Report to Planning Committee of 6th August 2009

Subject: Planning Application: Partial Change of Use of Reception Building to Form Bedroom for Staff Accommodation, Installation of Generator within Extension, Siting of Diesel tank and Waste Container at the Woods Caravan Park, Fishcross (Ref: 09/00151/FULL)

Applicant: Hillfoot Homes, Hillfoot Farm, Dollar

Prepared by: Keith Johnstone, Principal Planner

Electoral Ward: Clackmannanshire Central

1.0 Purpose

- 1.1. The purpose of this report is to consider an application for works at the Woods Caravan Site near Fishcross. Permission is sought to retain a diesel powered generator at the site but within a new extension to the reception building which would be designed to be an acoustic enclosure. The generator is currently sited adjacent to the reception building and has been used to supplement the power supply to the caravan site. The application also seeks permission to form bedroom accommodation within the reception building for the Site Manager and retrospective permission to site a waste container to the north of the reception building within the Caravan Site.
- 1.2. Our assessment concludes that the proposed developments would accord with the Development Plan and, having regard to the advice from Environmental Health, the proposal to house the generator within an acoustic enclosure could satisfactorily address the noise impact from the existing free standing generator installed at the site. However, while the proposed measures to attenuate noise from the generator should be approved, it is considered that enforcement action should also be taken in parallel against the existing freestanding generator due to the unacceptable noise impact on neighbours when it is operated and as a precaution in case the applicant does not implement and comply with the terms of this permission.
- 1.3. The report also summarises the objections received from 3 neighbours but concludes that their concerns could be satisfactorily addressed by the applicant implementing the terms of the permission. If the applicant fails to implement the permission the complaints relating to the noise impact from the existing free standing generator would be addressed by the Council pursuing enforcement action to remove this unauthorised development.

2.0 Recommendations

2.1 It is recommended that;

(a) The application is **APPROVED** subject to the following conditions:-

1. Within 2 months from the date of this permission and before the start of any works to construct the building to enclose the generator, details of a noise impact assessment of the generator and the enclosure produced in accordance with the requirements of BS4142 should be submitted for the consideration and approval of the Council, as planning authority. The assessment shall be produced by a suitably competent person and shall include;
 - (a) details of the predicted noise impact of the generator when operating at full load during day and night time and include details of the baseline noise spectrum of the generator under full load;
 - (b) an assessment to demonstrate the level of attenuation required by the building enclosure to ensure noise nuisance is not caused to neighbouring residential properties and details of any changes to the building design and construction to achieve the necessary level of noise and odour attenuation;
 - (c) detailed information on the design and construction of the building enclosure including the roof and walls, any air inlets and outlets, the provision of exhaust ventilation and effective exhaust dispersal; and measures to mitigate structure borne noise and vibration.

Once approved, the enclosure shall be completed in full in accordance with the approved details and plans before the generator is used. Thereafter, the enclosure and generator shall be maintained in accordance with the approved details unless otherwise agreed in writing by the Council, as planning authority. For the avoidance of doubt, this permission does not approve the operation of the generator on the site prior to the completion of the enclosure in accordance with the terms of this condition.

2. Before any construction work begins on site, samples of the external colour and finish of the external materials to be used in the alterations to and extension of the building shall have been submitted to and approved in writing by the Council, as planning authority. Thereafter, the works shall be completed in accordance with the approved details.
3. For the avoidance of doubt, this permission approves the siting of the waste storage container adjacent to the visitor car park as annotated in green on the approved Site Plan. The original location adjacent to the east elevation of the garage block at Diverswell Farm is NOT approved by this permission.

4. The bedroom accommodation hereby approved within the reception building shall only be occupied by someone employed full-time in the running of the caravan site business or a dependent of such a person living with him or her.
5. The works required to provide bunding or an alternative means of containment around the diesel tank hereby approved shall be completed in accordance with the requirements of the Water Environment (Oil Storage)(Scotland) Regulations 2006 within one month of the start of works to construct the enclosure building.
6. Construction works on site shall only take place between the hours of 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturday and at no time on Sundays or local bank holidays unless otherwise agreed in writing by the Council as planning authority.

REASONS

1. Insufficient details on the noise impact of the generator and the level of attenuation provided by the enclosure have been submitted with the application and to safeguard the amenity of neighbouring residents.
 2. To consider those details yet to be submitted and to take account of the requirements of Condition 1 above.
 3. In the interests of the residential amenity of neighbouring residents.
 4. To ensure the accommodation is occupied by persons solely or mainly employed in the running of the business and to accord with Policies EN18 and ENV3 of the Clackmannanshire Development Plan.
 5. To minimise the risk of pollution to surface and ground water.
 6. To safeguard residential amenity.
- (b) Committee agrees that enforcement action is appropriate to require the removal of the existing freestanding generator as a precaution in case the applicant does not implement the above permission in accordance with Condition 1 above to mitigate the noise impact on neighbours from the operation of the existing freestanding generator on the site.

3.0 Background to the Proposals

- 3.1 The application site relates to the Woods Caravan Site, Diverswell Farm, near Fishcross (see attached location plan).
- 3.2 The application comprises 3 elements, namely;
 - (a) the installation of a diesel powered generator within an extension to the existing reception building on its north facing elevation. The extension would measure 3.7 metres in length by 5.2 metres in width and the

lean-to roof would be approximately 2.8 metres in height at its highest point. Permission is also sought for a diesel tank adjacent to the extension. The generator has been installed without planning permission to the north of the reception building and retrospective permission has been sought by the applicant following an investigation by the Service following the receipt of complaints about noise nuisance from a neighbour in one of the nearest houses to the site. The proposed enclosure is intended to attenuate noise from the generator to address the noise complaint.

- (b) an alteration within the reception building to create a bedroom from an existing store for use by the Site Manager. There is currently a livingroom and shower room within the building but the Manager sleeps within a caravan adjacent to the building.
- (c) the siting of a steel container to store refuse from the site which is emptied by a refuse vehicle on a regular basis. This element of the application is retrospective although the container has been relocated to the car park to the north of the reception building since the applicant submitted the application. It had been sited adjacent to the garage block which serves the 4 houses at Diverswell Farm and had also been the subject of a complaint to the Service.

3.3 Planning permission was previously granted for the reception building in 2004 (Ref: 04/00223/FULL).

4.0 Consultations

- 4.1 Environmental Health recommend that a noise assessment is carried out by a suitably competent person to determine the adequacy of the design and noise attenuation properties of the enclosure building for the generator. The information submitted with the application is insufficient to conclude whether the enclosure would sufficiently attenuate generator noise to avoid noise nuisance to neighbours. Comment: *Environmental Health has observed the generator operating at the site and while they consider that the construction of an enclosure around the generator would greatly assist in attenuating the existing noise levels, they advise that the design of the enclosure should be informed by a noise assessment taking account of the noise impact of the generator and ventilation so as to ensure that it would effectively attenuate noise, given the proximity of the plant to the nearest houses to the north. Environmental Health have also stated that the noise impact from the existing generator is likely to generate complaints, particularly during the evening or morning periods. Although the recommendation for this application (see Para 2.1 above) is designed to address the noise complaints from neighbours relating to the existing generator, action could also be taken by Environmental Health under the Environmental Protection Act in the event that further noise complaints are received by the Council notwithstanding the terms of the planning permission.*

5.0 Representations

5.1 A total of 4 neighbours were notified of the application and 3 letters of objection have been received as a result of this publicity from the following parties:-

- (a) Paul Quigley, 4 Diverswell Farm, Fishcross
- (b) Stuart Wilson, 2 Diverswell Farm, Fishcross
- (c) Ryan Monteith, 3 Diverswell Farm, Fishcross.

The neighbours reside in the houses located to the north of the reception building.

5.2 The main issues raised in the objection can be summarised as follows;

- (a) the existing generator causes noise nuisance and as a result impacts on the enjoyment of the house and garden area. Comment: *The generator is sited approximately 30 metres from the rear wall of the houses and 20 metres from their garden boundary fence. An initial appraisal by Environmental Health of noise from the generator indicates that the increase in noise level due to the generator would be of a scale that would make complaints likely and could constitute a nuisance. The applicant proposes to erect an acoustic enclosure around the generator to address the concerns, but there is currently insufficient information from the applicant to demonstrate that the enclosure would be effective. A specification produced by a suitably competent person to demonstrate to the Council's satisfaction that noise could be attenuated to a satisfactory level could be required before work starts using a planning condition and this forms part of the recommendation. However, given there is no guarantee that the applicant would implement this permission and in order to remedy the existing noise complaints about the generator at the site, the Service would also proceed to serve an Enforcement Notice which would require the existing external generator to be removed and would be enforced in the event that the applicant failed to comply with the terms of the planning permission.*
- (b) the generator creates odour and the diesel tank is unsightly. Comment: *The ventilation of exhaust fumes would have to be considered in the details required under Condition 1 There is a landscaped bund between the garden areas and diesel tank and the visual impact of the tank would not be sufficiently detrimental to justify withholding permission.*
- (c) will effective noise attenuation measures be carried out and when will this be completed. Comment: *The proposed Condition 1 would require suitable details to be approved by the Council before work could start. The condition specifies a time period for submission of details and completion thereafter. The proposed enforcement action*

against the operation of the generator as existing should help expedite the applicant's proposals to attenuate the noise using an acoustic enclosure.

- (d) the frequency and hours of use of the generator is greater than described in the application. Comment: *The applicant has advised that the generator is required to supplement the existing mains power supply during periods of peak demand, typically in the morning and in the evening although he has disputed the late evening hours referred to in the objection letters. However, the acoustic enclosure would have to be designed to attenuate noise to an acceptable level whenever the generator was used.*
- (e) the applicant should be investing in the existing infrastructure given the development at the site. Comment: *The applicant has investigated upgrading the supply from Scottish Power but has advised that this would require a sizeable investment which would not be viable in the current economic climate. The generator would allow them to manage the problem and maintain supply to visitors but it is intended to upgrade the supply in the future.*
- (f) the siting of the waste container adjacent to the garage building is unsightly, poses a health risk, poses a danger to residents' children who use this area, damages the private access road to the 4 houses and refuse vehicles have no legal right to use the road. Comment: *The applicant has relocated the container to a location at the car park next to the reception building within the caravan site in response to the concerns and the request by this Service. This addresses the issues and it is considered that the new location would not result in any unacceptable impact on the amenity of neighbours.*
- (g) another mobile generator has been left adjacent to the access road to the houses. Comment: *The applicant has advised that this is not in use and will be removed from the site. The Service could consider enforcement action in the event that the plant is not removed.*
- (h) the applicant should build the Manager's house which has permission (Ref: 07/00338/FULL) rather than provide accommodation within the reception building. Comment: *The proposed accommodation would have no adverse impact on neighbouring houses.*

6.0 Planning Considerations

6.1 The planning application must be determined in accordance with the terms of the Development Plan unless material considerations indicate otherwise. The advice from the consultees and the objections by three neighbours would represent material considerations. The following sections examine the key issues relating to the distinct elements of the application.

6.2 Installation of Generator Within Extension and Siting Of Diesel Tank

The applicant has already installed a free standing generator unit and diesel tank to the north of the reception building. The existing power supply to the caravan site cannot cope with the peak periods of demand which, according to the applicant, is primarily related to demand to use electric heating within caravans. This tends to peak first thing in the morning and in the evening and is dependant on temperature levels and the occupancy rate at the site. This level of demand has resulted in power cuts at the site which can be avoided by use of the generator. However, complaints have been received from the nearest houses about noise and also odour when the generator is in use.

- 6.3 Following an appraisal in consultation with the Environmental Health Unit it is concluded that the noise impact from the existing generator is unacceptable and would adversely affect the amenity enjoyed by the objectors. The applicant has applied to construct an acoustic enclosure around the generator which would look like an extension to the reception building and is intended to attenuate noise and odour to a standard that would not create nuisance. While Environmental Health consider that there is potential to satisfactorily attenuate the current noise levels experienced by neighbours, there is insufficient details within the application to demonstrate that the works would be effective. They have advised that a detailed design scheme produced with the input of an acoustic engineer should be submitted for approval. The applicant has indicated that he is committed to construct the enclosure to an effective specification since an upgraded mains supply is unviable at present.

- 6.4 Having regard to:

- a) the balance of probability that the noise impact and noise complaints expressed by the objectors could be addressed to the satisfaction of the Council,
- b) the applicant's stated commitment to remedy the issue,
- c) the general level of support contained in the Local Plan for proposals which expand or enhance existing visitor facilities (Local Plan Policy JOB12); and which can be carried out without detriment to the amenities of adjacent land users (Policies EN 15 and EN18),

it is concluded there are insufficient reasons why permission for the proposed acoustic enclosure element should be withheld given a condition would require the noise attenuation measures to be submitted within a defined timescale and approved by the Council prior to building work commencing.

- 6.5 However, in order to remedy the unacceptable noise impact associated with the existing unauthorised free standing generator and to legislate in case the applicant does not implement this planning permission, it is also considered that the Council should initiate enforcement action in relation to the current situation. This dual approach is considered consistent with the provisions set out in the Council's Planning Enforcement Strategy and would still seek to remedy the source of the complaint for neighbours

- 6.6 Siting of Waste Container

The applicant has relocated the container to within the caravan site since the neighbours were notified of the application. The revised location does not now have an adverse impact on the amenity of the neighbours given the degree of screening that exists between the properties and the modest level of activity/disturbance associated with the use of the container.

- 6.7 It is concluded that the siting of the container is acceptable and that the concerns raised by the neighbours have been satisfactorily addressed.

6.8 Formation of Bedroom Accommodation With Reception Building

Currently, the site manager sleeps in a caravan or motor home adjacent to the reception. There is a living area, kitchen and shower already provided in the building. Given the increase in the site opening times into the winter and spring, and in the absence of the implementation of the permission for a new managers house (Ref 07/00338/FULL), it is considered that the provision of sleeping quarters for the manager within the existing building would be justified and would be consistent with the Council's policies in relation to residential development in the countryside subject to a condition restricting its use to the site manager only.

6.9 Conclusion

On balance, the principle of the proposed developments would accord with the Development Plan. Although three objections were received which raised a number of issues, it is concluded that these could be satisfactorily addressed subject to the applicant implementing the permission in accordance with the proposed conditions. The existing nuisance caused by the unauthorised generator is considered to have an unacceptable impact on the residential amenity of the nearest houses and it is proposed to proceed with enforcement action to remedy this breach concurrently in order to safeguard the amenity of the neighbours.

7.0 Sustainability Implications.

- 7.1 None

8.0 Resource Implications

- 8.1 *Financial Details*

- 8.2 No Implications

9.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities 2008-2011**

- | | |
|--|--------------------------|
| The area has a positive image and attracts people and businesses | X |
| Our communities are more cohesive and inclusive | <input type="checkbox"/> |
| People are better skilled, trained and ready for learning and employment | <input type="checkbox"/> |
| Our communities are safer | <input type="checkbox"/> |
| Vulnerable people and families are supported | <input type="checkbox"/> |
| Substance misuse and its effects are reduced | <input type="checkbox"/> |
| Health is improving and health inequalities are reducing | <input type="checkbox"/> |
| The environment is protected and enhanced for all | X |
| The Council is effective, efficient and recognised for excellence | <input type="checkbox"/> |

(2) **Council Policies (Please detail)**

10.0 Equalities Impact

- 10.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
YES X NO ☐

11.0 Legality

- 11.1 In adopting the recommendations contained in this report, the Council is acting within its legal powers. X

APPROVAL/SIGNATURE	DATE:
Head of Service: S Bell (signed)	28th July 2009

REPORT TO PLANNING COMMITTEE (to accompany all reports to Committee)

To: Head of Administration and Legal Services, Greenfield, Alloa FK10 2AD

Report author: Keith Johnstone, Principal Planner

Service: Development Services

Report title: Planning Application: Partial Change of Use of Reception Building to Form Bedroom for Staff Accommodation, Installation of Generator within extension, siting of diesel tank and waste container at the Woods Caravan Park, Fishcross (Ref: 09/00151/FULL)

Date of meeting: 06.08.2009

It is recommended that the attached report be:

1. **Given unrestricted circulation** ☐
2. **Taken in private by virtue of paragraph ___ of schedule 7A of the Local Government (Scotland) Act 1973** ☐

List any appendices attached to this report (if there are no appendices, please state 'none')

1. None

List the background papers used in compiling this report . If you have completed a sustainability checklist please add this to your list (if there are no background papers please state 'none')

- 1. Clackmannanshire Local Plan**
- 2. Consultation response from Environmental Health**
- 3. Objection Letters**
- 4. Planning Enforcement Strategy**

Nb. All documents listed must be kept available by the author for public inspection for four years from the date of the meeting at which the report is considered



