



**Clackmannanshire
Council**

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**Kilncraigs, Greenside Street, Alloa, FK10 1EB
(Tel.01259-450000)**

PLANNING COMMITTEE

Thursday 27 October 2016 at 9.30 am

**Venue: Council Chamber, Kilncraigs,
Alloa, FK10 1EB**

For further information contact Strategy and Customer Services, Clackmannanshire Council, Kilncraigs, Alloa, FK10 1EB
Phone: 01259 452106/2004 E-mail: customerservice@clacks.gov.uk www.clacksweb.org.uk

Date	Time
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Scheme of Delegation: Duties and Responsibilities Delegated to Committees

Planning Committee

Subject to paragraphs 3.28 and 11.4 of the Scheme of Delegation, the Planning Committee has responsibility for taking decisions on planning applications and enforcing planning laws, and;

Carrying out the local authority's function in relation to street naming under section 97 of the Civic Government (Scotland) Act 1982; and

Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Community and Regulatory Services related to Building Standards.

19 October 2016

A MEETING of the PLANNING COMMITTEE will be held within the Council Chamber, Kilncraigs, Greenside Street, Alloa, FK10 1EB, on THURSDAY 27 OCTOBER 2016 at 9.30 am.

GARRY DALLAS
Executive Director

B U S I N E S S

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2. Declaration of Interests Members should declare any financial or non-financial interests they have in any item on this agenda, identifying the relevant agenda item and the nature of their interest in accordance with the Councillors' Code of Conduct. A Declaration of Interest form should be completed and passed to the Committee Officer.	- -
3. Confirm Minutes of Meetings (Copies herewith):-	
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PLANNING COMMITTEE – MEMBERS

Councillors

Wards

Councillor	Alastair Campbell (Convenor)	5	Clackmannanshire East	CONS
Councillor	George Matchett, QPM (Vice Convenor)	1	Clackmannanshire West	LAB
Councillor	Tina Murphy	1	Clackmannanshire West	SNP
Councillor	Les Sharp	1	Clackmannanshire West	SNP
Councillor	Archie Drummond	2	Clackmannanshire North	SNP
Councillor	Walter McAdam, MBE	2	Clackmannanshire North	SNP
Councillor	Bobby McGill	2	Clackmannanshire North	LAB
Councillor	Derek Stewart	3	Clackmannanshire Central	LAB
Councillor	Gary Womersley	3	Clackmannanshire Central	SNP
Councillor	Kenneth Earle	4	Clackmannanshire South	LAB



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**THIS PAPER RELATES TO
ITEM 3(a)
ON THE AGENDA**

**MINUTES OF MEETING of the PLANNING COMMITTEE held within the Council
Chamber, Patons Building, Kilncraigs, ALLOA FK10 1EB, on THURSDAY 25 AUGUST
2016 at 9.30 am.**

PRESENT

Councillor Alastair Campbell, Convenor (In the Chair)
Councillor George Matchett, QPM, Vice Convenor (In the Chair)
Councillor Donald Balsillie (S)
Councillor Janet Cadenhead (S)
Councillor Kenneth Earle
Councillor Walter McAdam, MBE
Councillor Tina Murphy
Councillor Derek Stewart

IN ATTENDANCE

Julie Hamilton, Development Services Manager
Grant Baxter, Principal Planner
Andrew Wyse, Acting Legal Services Manager (Clerk to the Committee)

PLA(16)15 APOLOGIES

Apologies for absence were received from Councillor Bobby McGill, Councillor Les Sharp and Councillor Kathleen Martin.

Councillor Janet Cadenhead attended as substitute for Councillor Bobby McGill and Councillor Donald Balsillie attended as substitute for Councillor Les Sharp.

PLA(16)16 DECLARATIONS OF INTEREST

Councillor Earle declared a non financial interest in item 4 and stayed in Chambers but did not take part in the proceedings.

PLA(16)17 MINUTES OF MEETING: PLANNING COMMITTEE 30 JUNE 2016

The minutes of the meeting of the Planning Committee held on 30 June 2016 were submitted for approval.

Decision

The minutes of the meeting of the Planning Committee held on 30 June 2016 were agreed as a correct record and signed by the Vice-Convenor.

PLA(16)18 PLANNING APPLICATION

Application for Planning Permission – Development Comprising Alterations, including Partial Demolition, Three Storey Extension And Change Of Use Of Vacant Office Building To Form 42 No. Sheltered Housing Flats, Erection Of 6 No. Flats, With Associated Car Parking, Landscaping And Communal Private Open Space (Ref. No. 16/00068/FULL)

Listed Building Application 16/00069/LIST – Development Comprising Alterations, Including Partial Demolition, Three Storey Extension and Conversion Of Vacant Office Building to Form 42 No. Sheltered Housing Flats

Greenfield House, Tullibody Road, Alloa, Clackmannanshire

A report which provided an assessment of and recommendations on the development proposals for Greenfield House, Alloa contained in Planning and Listed Building Consent applications by Kapital Residential Ltd was presented by the Principal Planner.

The proposals would create a development of 48 No flats (42 No of which are sheltered accommodation) and ancillary uses, involving conversion of the listed Greenfield House, demolition of the existing extension and erection of a new build extension and detached flatted block.

The Committee heard representation from :

(1) Mr Ewan Murray (Objector)

Motion

That the Committee agrees the recommendations set out in the report for the reasons also stated in the report.

Moved by Councillor Alastair Campbell. Seconded by Councillor George Matchett.

Amendment

To add a condition that permission will need to be granted to insert windows in the facing elevation of the gable end of the two storey flats.

Moved by Councillor Donald Balsillie. Seconded by Councillor Janet Cadenhead.

Decision

The Committee agreed unanimously to APPROVE the planning and listed building applications subject to the conditions set out in the report and the addition of a further condition that no new window opening shall be installed in the north facing gable of the Private Flat Block without express planning permission having been first obtained

Action

Principal Planner

PLA(16)19 PLANNING APPLICATION

Application for Planning Permission – Erection of 30 No Houses With Associated Roads and Footpaths (Amendment to Planning Permission 06/00386/FULL), Land to West, The Glen, Coalsnaughton, Clackmannanshire (Ref No. 16/00089/FULL)

A report which provided an assessment of and recommendations on the development proposals for erection of 30 No units (22 No houses and 8 No cottage flats) on land to the west of The Glen, Coalsnaughton was presented by the Principal Planner.

The planning application was reported to the Planning Committee for a decision as the Council has an interest in the development, as a joint-venture partner with the applicant, to provide 28 No affordable homes on the site through the National Housing Trust (NHT) initiative. The Council approved the extension of the NHT project to include this proposed development on 25 June 2015.

Motion

That the Committee agrees the recommendations set out in the report for the reasons also stated in the report.

Moved by Councillor Alastair Campbell. Seconded by Councillor George Matchett.

Decision

The Committee agreed unanimously to APPROVE the planning application subject to the conditions set out in the report.

Action

Principal Planner

Ends 1015 hrs

**MINUTES OF MEETING of the LOCAL REVIEW BODY held within the Council Chamber,
Patons Building, Kilncraigs, Alloa, FK10 1EB on THURSDAY 25 AUGUST 2016 at 1.30
PM.**

PRESENT

Councillor Alastair Campbell (In the Chair)
Councillor Kenneth Earle
Councillor Tina Murphy

IN ATTENDANCE

Stuart McQueen, Solicitor, Legal Services (Clerk to the Local Review Body)
Andrew Wyse, Planning Adviser to the Local Review Body
Grant Baxter, Principal Planner
Luke Henderson, Environmental Health Officer
Gillian White, Business Support to the Local Review Body
Mr Sohail Afzal, Applicant

LRB(16)01 PROPOSAL FOR A CONVENOR

As the Convenor was in attendance, this item was not required.

LRB(16)02 APOLOGIES

Apologies were received from Councillor Bobby McGill and from Mr Malcolm Parry (Agent for the Applicant).

LRB(16)03 DECLARATIONS OF INTERESTS

None.

LRB(16)04 APPLICATION FOR REVIEW – 101 MAIN STREET, SAUCHIE, FK10 3JT

Name of Applicant:	Mr Sohail Afzal
Site Address:	101 Main Street, Sauchie, FK10 3JT
Description of the Application:	Change of use and conversion of part of existing retail unit (Class 1) to create ground floor flat with associated works.
Planning Application Reference Number:	16/00070/FULL

Following an accompanied site visit at 11.00 am on Thursday 25 August 2016, the LRB considered a Notice of Review submitted by the Applicant's agent seeking a review of the decision by the Appointed Officer of the Council to refuse planning permission for the change of use and conversion of part of existing retail unit (Class 1) to create a ground floor flat with associated works.

The Local Review Body had the opportunity to put questions to all parties.

Decision

Having determined that the Local Review Body had sufficient information before it to proceed to decide the matter and having considered the notice of review and the information before it in terms of section 43A(15) of the Town and Country Planning (Scotland) Act 1997, on a division of 2 votes to 1, the Local Review Body agreed to uphold the decision of the appointed officer and to refuse planning permission for change of use and conversion of part of existing retail unit (Class 1) to create a ground floor flat with associated works for the following reason:

1. The application proposes a residential flat within the town centre area of Sauchie as identified by the Clackmannanshire Local Development Plan, adopted 2015. The subjects adjoin a rear service area of adjacent commercial premises, including a hot food takeaway, and is considered to be an inappropriate location for such a development, as residents of the proposed flat would be likely to suffer an unacceptably low level of residential amenity by virtue of their proximity and relationship to the adjoining uses and associated activities.
2. The proposed development would not integrate well with its surroundings and would not contribute to the vitality and viability of Sauchie town centre. As such, the application does not fully accord with Policies SC5 and EP15 of the Clackmannanshire Local Development Plan, adopted 2015.

The Clerk to the LRB will issue a formal decision notice to the Applicant's agent.

Action

Clerk to the Local Review Body.

ENDS 2.00 pm

**MINUTES OF MEETING of the LOCAL REVIEW BODY held within the Council Chamber,
Patons Building, Kilncraigs, Alloa, FK10 1EB on THURSDAY 22 SEPTEMBER 2016 at
10.30 am.**

PRESENT

Councillor George Matchett, QPM (In the Chair)
Councillor Kenneth Earle
Councillor Derek Stewart

IN ATTENDANCE

Stuart McQueen, Solicitor, Legal Services (Clerk to the Local Review Body)
Grant Baxter, Principal Planner, Clackmannanshire Council
Andrew Wyse, Planning Adviser to the Local Review Body
Robin T Hutton, BSC(Hons) MRTPI, Planning Consultant (Agent for the Applicant)
Alan Ramsey, Applicant
Margaret Summers, Business Support to the Local Review Body

LRB(16)05 APOLOGIES

None

LRB(16)06 DECLARATIONS OF INTERESTS

None.

LRB(16)07 APPLICATION FOR REVIEW – FEARNES FARM, FORESTMILL, FK10 3QG

Name of Applicant:	Mr Alan Ramsey
Site Address:	Fearnies Farm, Forestmill, Clackmannanshire FK10 3QG
Description of the Application:	Planning Permission in Principle for the Erection of 1 No. House at Fearnies Farm, Forestmill, FK10 3QG.
Planning Application Reference Number:	16/00049/PPP

Following an accompanied site visit at 9.30 am on Thursday 22 September 2016, the Local Review Body (LRB) considered a Notice of Review submitted by the Applicant's agent seeking a review of the decision by the Appointed Officer of the Council to refuse planning permission in principle for the erection of a house at Fearnies Farm, Forestmill, FK10 3QG.

The Local Review Body had the opportunity to put questions to all parties.

Decision/

Decision

Having determined that the Local Review Body had sufficient information before it to proceed to decide the matter and having considered the notice of review and the information before it in terms of section 43A(15) of the Town and Country Planning (Scotland) Act 1997, the Local Review Body agreed unanimously to uphold the decision of the appointed officer to refuse planning permission in principle (Ref 16/00049/PPP) for the erection of 1 No. House at Fearn Farm, Forestmill, FK10 3QG, for the following reasons:

Reason(s)

The Local Review Body having taken cognisance of Policies SC23 and SC24 within the 'General Principles' (SC23) and 'Residential Development in the Countryside' (SC24) along with proposal H50, all within the Clackmannanshire Local Development Plan, supported the view that:

- (a) The need for this development in the countryside has not been demonstrated that there is a requirement for a countryside location (SC23).
- (b) The proposed site for the house would be physically and visibly separate from the existing group of buildings at Fearn Farm and would appear as an isolated development that would detract from the visual amenity and local landscape character (SC23).
- (c) Note has been taken of the Clackmannanshire Local Development Plan for Forestmill (H50) as it will involve a single house development in part of this large scale development site and as such would not be in accordance with the Forestmill 'Master Plan' and would provide a 'piecemeal' development.

The Clerk to the Local Review Body to issue a formal decision notice to the Applicant's agent.

Action

Clerk to the Local Review Body.

Ends 1040 hrs

Report to: **Planning Committee**

Date of Meeting: **27th October 2016**

Subject: **Application for Planning Permission - Change of Use from Public Open Space to Private Garden Ground and Erection of Boundary Fence – 30 Cleuch Drive, Alva (Ref No. 16/00145/FULL).**

Report by: **Mark Stoddart, Planner.**

1.0 Purpose

- 1.1. This application is for planning permission to change an area of open space into private garden ground and erect a boundary fence. The open space is to the side of No. 30 Cleuch Drive and contains 3 trees and grass. The proposal would therefore represent an extension to the applicant's existing garden.
- 1.2. This is a local development that would normally fall to be decided by Appointed officers. However, the land is owned by the Council and there have been representations against the proposal.

2.0 Recommendations

- 2.1. **Approve** the application subject to a condition.

2.2. Condition

1. Before any work starts on site, a planting plan for the area between the footpath and proposed fence shall have been submitted to and approved in writing by the Council. The plan shall provide details of a maintenance regime that will ensure that the planting will be kept below 1 m in height. Thereafter, in the first planting season following the erection of the boundary fence, the area between the fence and the footpath will be planted in accordance with the approved planting plan.

2.3. Reasons for Conditions

1. In order to mitigate the visual appearance of the development and ensure visibility for road users.

2.4. Reason for decision

1. The proposal meets the criteria of Policy SC 8 & SC 10 of the Clackmannanshire Local Plan.

2. The proposal complies with guidance contained in Supplementary Guidance No.10 - Domestic Developments.

3. There are no other material considerations that outweigh the Development plan position

3.0 Considerations

3.1. The applicant wishes to purchase the area of open space next to their property at 30 Cleuch Drive, Alva. This represents a change of use and planning permission is needed.

3.2. History of Site

The area of open space is owned and maintained by the Council, and contains three trees and grass. There is no record of any planning applications since the development of the original housing estate. The current use of the land is therefore in accordance with that original consent.

3.3. Details of Proposals

Originally the proposal included a 2 m high fence, positioned 0.2 m behind the rear of the footpath along the majority of the road boundary of the land. A small section of 1 m high fencing was shown opposite the applicant's driveway. Following advice from the Councils Roads Service and representations on the application, discussions were held with the applicant.

As a result, the proposal has been amended.

- The fence is reduced to 1.8 m in height.
- The fence is positioned 0.8 m from the footpath.
- Planting is proposed between the fence and footpath.

3.4. Consultations

3.5. Roads and Transportation – have provided advice on road design, visibility and sight stopping distances. They advise that, based upon the appropriate design speed in this location, a forward visibility envelope for this section of Cleuch Drive must be maintained. Having considered the amended proposals, they consider that these overcome the adverse impact on visibility that arose in the assessment of the original proposals, in relation to the use of the road and applicant's driveway. Accordingly, they do not object to the proposal.
Comment – *Noted*.

Land Services – have no objections to the change of use. Comment – *noted*.

Estate Management – have confirmed that the sale of the land can go ahead.
Comment – *noted*.

3.6. Representations

There were 14 neighbours notified of the application. Three objections were received from the following parties.

Mrs M Pirrie, 65 Cleuch Drive, Alva.

Ian F Buchanan, 67 Cleuch Drive, Alva

Alex Pollock, 75 Cleuch Drive, Alva.

The objections can be summarised as follows.

1. The proposed 2 m high fence will restrict visibility for vehicles using Cleuch Drive. The road network is busy at peak times. Comment. *The amended proposal has lowered the fence to 1.8 m in height and moved it back from the footpath. In its proposed position it meets the requirements of the Councils Roads Service for driver visibility.*
2. The applicant could remove the trees present in the area. Comment. *While the trees are not and will not be formally protected, by a Preservation Order or Conservation Area designation, the applicant has stated that they intend to retain the trees. It is noted that a tree has been removed in the past and the Council has planted two new trees in the area. It is neither appropriate or necessary to preserve the trees through the planning application process. However, the Council can have a title restriction imposed in the sale of the land.*

3.7. Planning Assessment

3.8. (a) Local Development Plan

3.9. i. Policies

The relevant Development Plan Policies are Policy SC 8 (Domestic Developments) & SC 10 (Education, Community Facilities and Open Spaces).

Clackmannanshire's Local Development Plan policy SC 8 states that the Council will normally approve alterations to houses provided that the development, by virtue of its siting, design, scale or massing does not detrimentally affect the character or appearance of the building, site or surrounding area.

Policy SC 10 aims to retain and enhance the provision of educational facilities, community facilities and open space, but sets parameters and criteria for the assessment of proposals that, for example, propose changes to open space provision.

From the information provided in the application, and comments, if any, received from third parties, we conclude that :-

- The proposed materials for the fence when combined with new planting, will not adversely affect the streetscape.

- The general amenity and character of the surrounding area will not be compromised.
- The area of open space is not actively used by the public. In some respects, it appears to be part of the garden of the house. The loss of this open space will not significantly affect levels of residential amenity in this area. The change in function will not be detrimental to the local community.

3.10. (b) Assessment

- 3.11. The area of land is to the side of the house and will form a natural extension to the existing garden. The area has been maintained by the Council, but the existing fence forms an artificial division of the space between the garden and the road that is not evident at similar locations nearby.
- 3.12. The area is not actively used by the public and its change to garden ground will not affect the community in terms of any loss of recreational space. Its size, position and relationship to neighbouring houses combine to offer minimal value as public open space.
- 3.13. The revised position of the fence, 0.8 m from the rear of the footpath, provides an area which can be planted to soften the visual impact of the fence. This is similar to other examples of garden enclosure in the area. The applicant has confirmed that they intend to plant the area between the fence and footpath. This arrangement will safeguard standards of visibility for road users in a manner proportionate to the character and use of the surrounding road.
- 3.14. Our assessment of this proposal takes account of the applicant's house, the position of, and alterations to, neighbouring properties, and any consequential predicted change to standards of amenity.
- 3.15. The proposal generally accords with the guidance on householder developments in Supplementary Guidance No.10 - Domestic Developments.

4.0 Sustainability Implications

- 4.1. None.

5.0 Resource Implications

5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes ☒

- 5.3. Finance has been consulted and has agreed the financial implications as set out in the report. Yes ☒

5.4. *Staffing*

6.0 Exempt Reports

6.1. Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☒

7.0 Declarations

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

(1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses	<input type="checkbox"/>
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	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input type="checkbox"/>

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

See paragraph 3.9.

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes ☐ No ☒

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None.

11.0 Background Papers

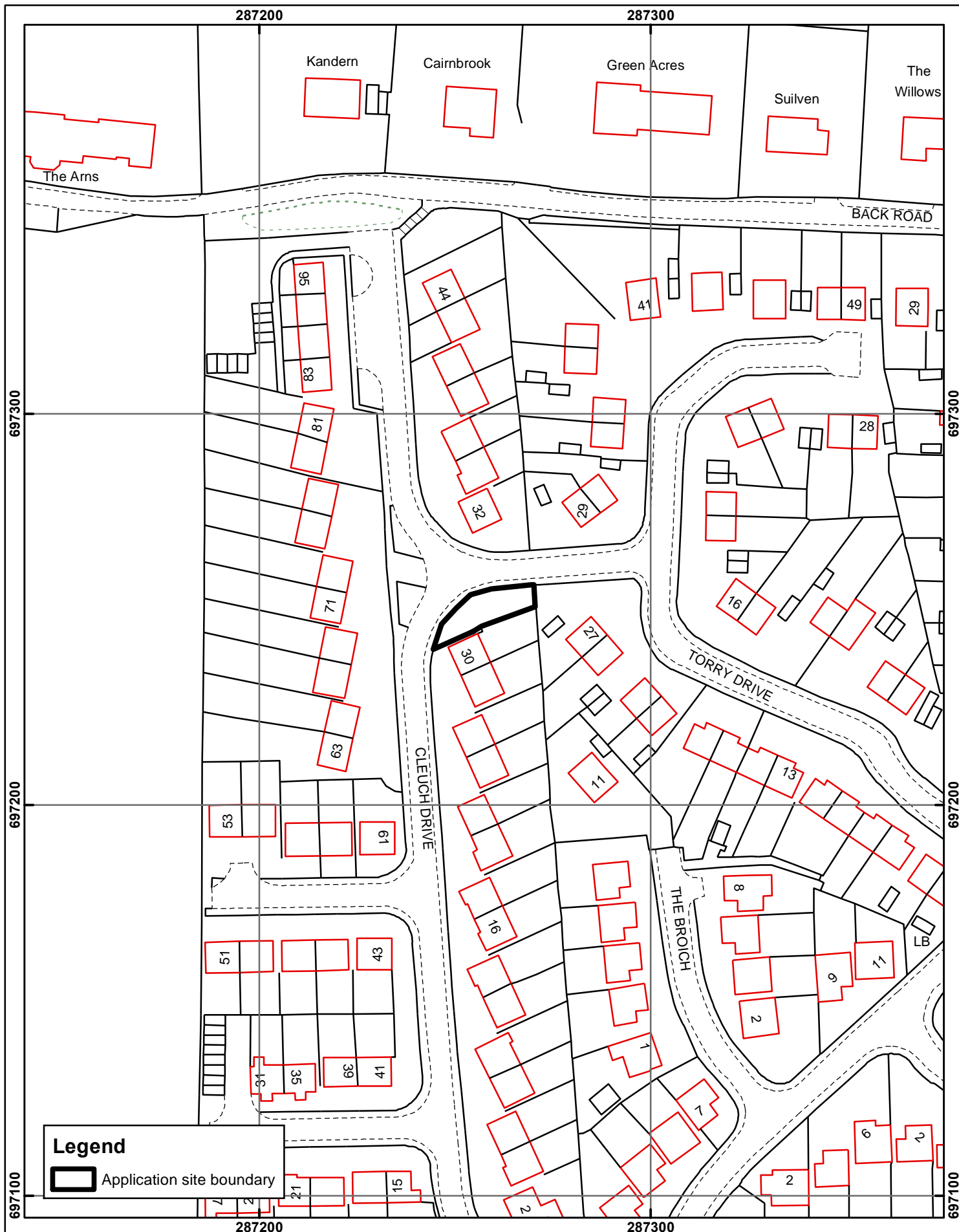
11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)
Yes ☐ (please list the documents below) No ☒


Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
M Stoddart	Household Planner	01259 452626

Approved by

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Services Manager	Signed: J Hamilton
Gordon McNeil	Head of Development and Environment Services	Signed: G McNeil






Date:
11-Oct-2016

16/00145/FULL – 30 Cleuch Drive, Alva
Change of Use From Public Open Space to Garden
Ground And Erection Of Boundary Fence

Ward: Clackmannanshire North

OS Grid Ref: NS 87 97 SW

Scale: 1:1,250



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Report to: **Planning Committee**

Date of Meeting: **27th October 2016**

Subject: **Planning Application Ref: 16/00159/FULL – Change of Use of Agricultural Land to Permanent Gypsy/Traveller Site (2 No Households), Cattery and Apiary and Siting of 2 No. Residential Caravans and 2 No Touring Caravans, at**
Land To The South Of B910 And West Of Gartlove Plantation, by Clackmannan

Report by: **Grant Baxter, Principal Planner**

1.0 Purpose

- 1.1. The purpose of this report is to provide an assessment of and recommendations on the development proposals for the change of use of agricultural land to permanent gypsy/traveller site (2 No. households), cattery and apiary and siting of 2 No. residential caravans and storage of 2 No. touring caravans on land off the B910 road, at Gartlove, near Clackmannan.
- 1.2. The Planning application is for a local development but requires to be determined by Committee following a request from a local Member.

2.0 Recommendations

- 2.1. It is recommended that the application is approved for a temporary period of 3 years, and also subject to other conditions as contained in Appendix 1 to this report.

3.0 Considerations

- 3.1. Background
- 3.2. The site is a triangular area of land lying just to the west of the Gartlove forestry plantation and accessed via a private track served off the B910 road. The site sits around 30m back from the road frontage. It is partly covered in hard-core type material and enclosed by post and wire fencing. Surrounding land is mainly agricultural. The access track serving the site also serves a site around 200m to the south east which has consent and is used for a permanent gypsy traveller pitch, granted on appeal in 2009, and a caravan approved on a temporary basis, in connection with an adjoining agricultural enterprise.

- 3.3. The application is partly retrospective and comprises the following elements:
1. Change of Use of Agricultural Land to Permanent Gypsy/Traveller Site (2 No Households).
 2. Formation of hardstanding.
 3. Installation of a septic tank drainage system.
 4. Siting and occupation of 2No. Residential caravans.
 5. Storage of 2No. touring caravans.
 6. Formation of cattery business (and associated enclosures).
 7. Formation of apiary (non-business related).
- 3.4. Planning permission was granted in March 2014 to the previous owner of the site for siting of steel container, mesh enclosure and storage huts and formation of hardstanding. It is understood that the current owner purchased the site several months ago, and proceeded to site two residential caravans on the land, and this represents the retrospective element of the application. All aspects of the proposal need to be judged on their individual and collective merits.
- 3.5. Consultations
1. Roads: Objection. The proposal would involve additional development served off a sub-standard private track onto an unrestricted rural road.
Comment: The road is observed to be very lightly trafficked and the proposal is for a small scale of development.
 2. Environmental Health: The proposed cattery will require to be licenced. Further details of storage and disposal of waste will be required and should be in accordance with SEPA guidance. Detailed conditions proposed in relation to cattery business to reduce potential for noise nuisance. *Comment: If approved, such matters can be captured in planning conditions.*
 3. Housing: The HNDA indicates there is no shortage of pitches at Westhaugh G/T Site, with vacant pitches currently available. The 2016 HNDA will provide more specific information on the G/T population, but current information suggests existing site provision in Clackmannanshire is adequate. *Comment: Guidance from Planning Aid Scotland indicates that reliance on availability of pitches at the Council-run site alone would not substantiate a refusal of planning permission for a private site*
- 3.6. Representations
- 3.7. There were no notifiable neighbours to this application, however as there is adjoining land with no premises, a Neighbour Notification advertisement was published in the Alloa Advertiser on 20 July 2016, and again on 24 August 2016, following changes to the application description.
- 3.8. In response, representations were received from the following parties:

1. Mr Colin Logan, East Birkhill Cottage, Clackmannan
2. Mrs Kim Pittaway, 1 Linn Mill Cottages, Clackmannan
3. Mr Gavin Pittaway, 1 Linn Mill Cottage, Clackmannan
4. Gary & Rebecca Boyd, New Woodyett Cottage, Clackmannan,
5. Maureen Ward, West Birkhill, Clackmannan

3.9. The representations can be summarised as follows:

1. Concerns regarding noise disturbance, having already been an issue arising from generators on site. *Comment: Initial concerns about noise nuisance have been investigated by the Council's Environmental Health Team, and no substantial evidence of a noise nuisance has been identified. Environmental Health have recommended conditions, including one regarding control of noise, if planning permission is granted.*
2. Concern that people should not be permitted to site caravans wherever they choose in the countryside, when there are registered sites, including one nearby. The Council-run traveller's site at Westhaugh, Alva is underutilised. *Comment: The availability of space at Westhaugh is not material in considering an application for a small privately owned site with related business proposals. It must be examined on its own merits in relation to relevant LDP policy.*
3. Caravans have previously been refused on land close to the application site. *Comment: The current application must be assessed on its own merits*
4. Concern regarding increased traffic in this rural area, and increased use of a sub-standard access with poor visibility onto a 60mph road. *Comment: Whilst the site access is of restricted width and visibility, it is on a straight section of this lightly trafficked rural road, and the development is of a small scale.*
5. There is no footway serving the site and no public transport routes on the road passing it, creating a safety risk for pedestrians, who will be forced to walk on the road, and additional school transport costs. *Comment: A narrow rural footway runs alongside the road towards Clackmannan, however there are no public transport services.*
6. Concern regarding devaluation of surrounding properties. *Comment: This is not a material planning consideration.*
7. Concern regarding impact on character of this rural area, the visual impact of the development on an area of high scenic value and on the agricultural use of adjoining land. *Comment: The site lies within part of the Special Landscape Area (SLA) designation, however it is one which has a number of small rural developments already within close proximity. The site is not open to distant views from around it and is only partially visible from the B910 road at relatively close proximity. Any permission would be conditioned such that native planting would require to be established in order to further soften any visual impact.*

8. The proposed development does not fall within the current development plan. *Comment: The site is not allocated for any particular use in the Local Development Plan. It is outwith any settlement boundary. Relevant policy issues are examined later in the report.*
9. Concerns that the site is not large enough to provide an adequate soakaway for the septic tank. *Comment: The septic tank will be subject to separate consenting arrangements through the Council's Building Standards.*
10. The proposals represent over-development of the plot. *Comment: There is no evidence to indicate that the proposals constitute over-development*

3.10. Planning Assessment

- 3.11. The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Clackmannanshire Local Development Plan, adopted August 2015 (LDP) comprises the development plan.

- 3.12. The main relevant policy provisions of the LDP are as follows:

1. Policy SC3 – Gypsies, Travellers and Travelling Show People
2. Policy SC20 – Water and Drainage Infrastructure and Capacity
3. Policy SC23 – Development in the Countryside – General Principles
4. Policy SC24 – Residential Development in the Countryside
5. Policy SC25 – Business Development in the Countryside
6. Policy EA4 – Landscape Quality

- 3.13. Policy SC3 identifies considerations to be taken into account for private gypsy traveller sites, with encouragement given to use of authorised sites in the first instance, and support for private sites only given where certain criteria, including other relevant policies of the LDP, can be met.

- 3.14. Assessment against other policies is set out below, however Policy SC3 also requires the development to be sensitively located and designed to avoid significant adverse effects, offer appropriate standards of amenity and access to local services.

- 3.15. Policy SC20 seeks to ensure that developments are served by suitable water and drainage infrastructure, and proposes SUDs for all new development.

- 3.16. Policy SC23 directs new developments to existing settlements unless certain criteria can be met, including demonstrating the need for a countryside location. Other criteria echo those set out in Policy SC3.

- 3.17. Policy SC24 derives from SC23 and is specific to residential development, setting out additional criteria for assessing residential development. In this case, the residential element of the proposal are the two residential caravans.

The only relevant criterion is that which relates to accommodation required in association with a new rural business, indicating that temporary consent for a mobile home or similar may be permitted, until the business is established.

- 3.18. Policy SC25 also derives from SC23 and is specific to business developments in the countryside, and is therefore relevant to the proposed cattery. It indicates that proposal should be supported by a business plan or financial appraisal, and for a new business, the need for a countryside location must derive from the characteristics of the development.
- 3.19. Policy EA4 indicates that developments within a Special Landscape Area (SLA) should demonstrate that the landscape character would not be adversely affected and that it could not be located in a less sensitive location, and that any adverse impacts are outweighed by social, environmental or economic benefits.
- 3.20. Taking account of the provisions of the development plan, the following conclusions are made:
 1. Capacity exists to accommodate families in the Council-run travellers' facility at Westhaugh, by Alva.
 2. The site benefits from some natural screening afforded by the mature woodland that lies to the east. The site is open on all other sides and slopes upwards away from the public road, and is partially visible on approach from the west, however the only full views of the site from the B910 road are immediately at the access point.
 3. The site lies in an area of agriculture and forestry, and the nearest houses are over 200m away. There is no clear evidence that it would impact negatively on residential amenity. There is no clear view of the site from any nearby house.
 4. In respect of services and amenity for residents of the site itself, it is considered large enough to provide parking and amenity space for the two families that would occupy it. A septic tank has been installed that requires a Building Warrant, which has not as yet been applied for. This will require to be sought and soakaway and surface water drainage arrangements will require to comply with SEPA guidance. The site lies within 2.5km of the amenities, including school, shops and health centre in Clackmannan. There are no public transport connections and only a narrow informal footway exists along the road.
 5. There is no evidence of justification as to why the development requires to be located in an SLA, rather than a less sensitive landscape area. The design of the development is very much limited by its nature i.e. caravans and utilitarian structures. The location is not considered to be visually prominent, despite being part of the SLA, and the development is not judged to have any significant impact on the designation. In this context, it should be noted that there are a number of other developments of similarly modest scale, but perhaps different character, in the vicinity and the SLA. These include a separate private Gypsy/Traveller pitch, a new farm steading and temporary

accommodation, stables, a pheasant rearing enterprise and various means of enclosure erected under permitted development rights.

6. The cattery business is yet to be established, and limited information has been submitted in respect of it. There may be some policy support towards its need for a rural location, and the justification for temporary on-site living accommodation in the form of a caravan. However, the credentials of the business are not certain, and it would not need the two separate households for supervision.
- 3.21. Overall, whilst elements of the proposals comply with certain provisions of the LDP, there are also significant areas of policy conflict, suggesting that the proposals do not fully comply with the provisions of the development plan. However, in the absence of significant adverse effects on the appearance, amenity and character of the surrounding area, the provision of appropriate levels of residential amenity, access to local amenities and availability of services, the proposal complies with the key policy test on gypsy/traveller accommodation, so cannot be deemed to be contrary to the development plan.
- 3.22. Other Material Considerations
- 3.23. There are a number of material considerations that are relevant to this proposal, includes:
 1. The Planning Aid Scotland's publication "Gypsy/Travellers and the Scottish Planning System – A Guide for Local Authorities" (The PAS Guide).
 2. The Secretary of State's Advisory Committee on Scotland's Travelling People – Guidance Note on Site Provision for Travelling People (ACSTP), Final Report 2000 - adopted by Scottish Executive(SE) as policy.
 3. Human Rights and Equality Legislation – Public Sector Equality Duty (PSED)
 4. Personal circumstances of the applicant.
 5. Previous appeal decision on adjacent site.
- 3.24. Taking account of these considerations, the following conclusions can be drawn:
- 3.25. The Council has adopted a policy for consideration of private Gypsy/Traveller sites, as required by the SPP. The proposals largely comply with this policy, given the absence of any significant adverse effects on the character of the area and amenity of residents. There may be some areas of support in the LDP for the planning application.
- 3.26. The personal circumstances of the applicant are not normally of relevance in determining planning applications. The PAS Guide suggest that due to the inequalities that gypsy/travellers face, it may be the case that personal circumstances should be given weight in determining applications, but only if there is conflict with the development plan. In this case, the key personal

circumstances that have been brought to our attention are the education of children living at the site, the applicant's local connections and intention to establish a cattery business.

- 3.27. Article 8 of the European Convention on Human Rights (ECHR) is concerned with the right to private and family life, and public authorities are required to consider carefully the proportionality of their actions in decision making which may affect Gypsy/Travellers family or home life. This requires a balance of social need with the protection of designations, such as SLAs. In respect of Article 14 of the ECHR, concerning prohibition of discrimination, there is a positive obligation to facilitate the Gypsy/Traveller way of life, and again, a balance must be struck, taking account of the facts of the case. It should also be noted that the UN Convention on the Rights of the Child (UNCRC) is also a material consideration. When considering Gypsy/Traveller applications, there is a duty on the Council to consider the impact that decision-making will have on any children affected by the outcome of that decision.
- 3.28. In an appeal decision for a private gypsy/traveller pitch on nearby land, the Reporter noted that, at that time, the Council did not have a development plan policy on gypsy/traveller sites, as required by the then SPP3. The Reporter noted that the ACSTP stated that applications for private sites should be sympathetically considered and also that the site in question was particularly discreet. These were the main reasons for allowing the appeal.
- 3.29. The Council now has a development plan policy to assess private gypsy/traveller sites against, and as noted above there is some potential support and conflict with the development plan provisions in this case. Where there is conflict with development plan policies, the ACSTP would continue to be a material consideration, as it was at the previous planning appeal on the nearby site, and which states that planning permission for private sites should be sympathetically considered.
- 3.30. The PAS Guide indicates that temporary planning permissions can create uncertainty and should be avoided where possible, however, are not ruled out where the balance between the potential planning harm of the development and other material circumstances is unresolved.
- 3.31. Therefore, a temporary planning permission for a period of three years would appear to strike a suitable balance between meeting the housing needs of the applicant and his family in the medium term, enabling the proposed business to be established, allowing the Council to monitor the use of the site, and commence a review of local development plan policy.

4.0 Sustainability Implications

- 4.1. As described in paragraphs 3.10 – 3.19 of this report.

5.0 Resource Implications

- 5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes ☐

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes ☐

5.4. *Staffing*

6.0 Exempt Reports

6.1. Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☐

7.0 Declarations

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

(1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses	<input type="checkbox"/>
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	<input type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input type="checkbox"/>

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

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes ☐ No ☒

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

- Appendix 1 – Planning conditions and reasons for decision recommended in paragraph 2.1

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☐ (please list the documents below) No ☒

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Planner	2615

Approved by

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Services Manager	Signed: J Hamilton
Gordon McNeil	Head of Development and Environment Services	Signed: G McNeil

Appendix 1 - Planning Conditions and Reasons for Decision Recommended in Paragraph 2.1

Conditions

1. This permission shall cease on 31 October 2019. By that date, the use of the site as a permanent gypsy/traveller site, cattery and apiary shall cease and all caravans shall be removed from the site. Unless, by that time, planning permission has been granted for continued use of the site for this development.
2. The site shall only be occupied by a maximum of two families who are declared Gypsy/Traveller households.
3. Within three months of the date of this permission, the following additional information shall have been submitted to and approved in writing by the Council:
 - a. A detailed site layout plan at a scale of not less than 1:500 showing the precise location of all caravans, structures, domestic and commercial waste storage, parking and hard and soft landscaping.
 - b. Elevations and floor plans at a scale of not less than 1:50, showing the proposed cattery enclosures, fencing and any other structures in the site.
 - c. A schedule of native tree and hedge planting along the site boundaries, and arrangements for planting and future maintenance.
 - d. Details of proposed water supply, foul and surface water drainage arrangements.

Once approved, the development shall be carried out in accordance with such approved details, unless otherwise approved in writing by the Council.

4. All plant, machinery and equipment installed or operated within the site shall be so enclosed and/or attached that noise therefrom does not, at any time, increase the background levels as measured in accordance with British Standard BS4142:2014, at any nearby residential property.
5. The proprietor of the cattery business shall keep a record of the number and frequency of customer numbers travelling to and from the site. From the first anniversary of the commencement of the development hereby approved, the information shall be submitted in writing to the Council, as planning authority for the preceding 12 month period. The information shall be presented giving the number of visitors on a weekly basis split between weekend and weekdays of each week within the 12 month period, unless otherwise agreed in writing by the Council.
6. The cattery and any activities associated with its operation including serving of customers, shall only be carried out between 0800 hours and 1900 hours, Monday to Friday and 0700 and 1200 hours on Saturdays and Sundays.

Reasons

1. The application does not fully comply with the Local Development Plan. The proposed cattery business has yet to be established and this period of time will allow sufficient time for it to do so whilst meeting the applicant's housing needs and allow landscaping to mature.

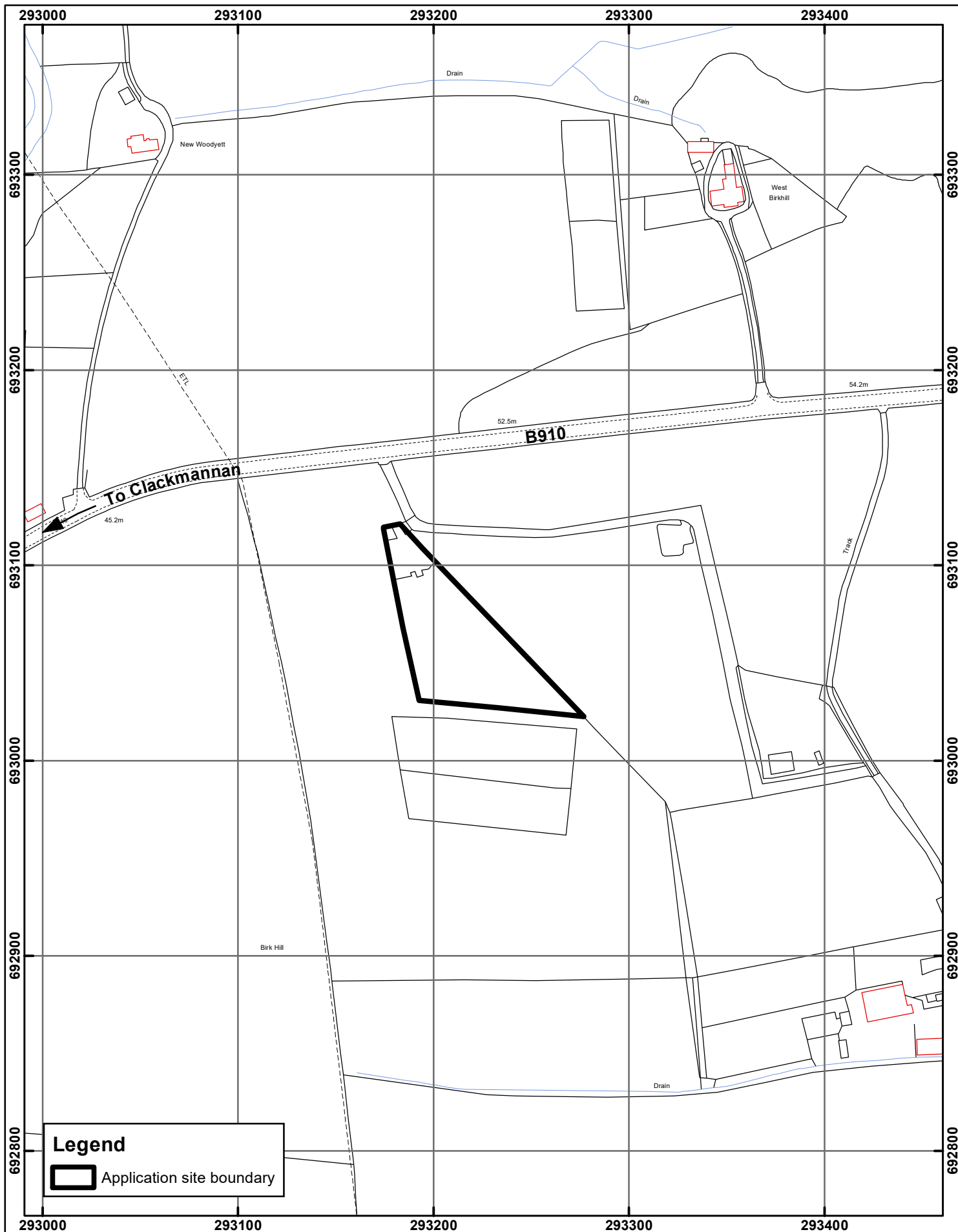
2. In order to protect the visual amenity of the Special Landscape Area against over-development and in recognition of the needs of Gypsy/Travellers.
3. In order to ensure the submission and approval of precise details in connection with the proposed development and their implementation on the site.
4. In the interests of residential amenity.
5. In order to monitor traffic impact in association with the proposed development.
6. In the interests of visual amenity.


Reasons for Decision

1. Elements of the proposals comply with certain provisions of the LDP, but there remain areas of policy conflict, however, the proposals would not result in significant adverse effects on the appearance, amenity and character of the surrounding area, the provision of appropriate levels of residential amenity, access to local amenities and availability of services. As such, they comply with the key policy test on gypsy/traveller accommodation, as set out in Policy SC3 of the Local Development Plan.
2. The application does not fully meet the tests set out in the LDP in respect of developments in the countryside and SLA, however, the housing needs of a gypsy/traveller family and the establishment of a rural business, in the form of a cattery, are material considerations that are of relevance in this case.
3. Whilst not fully in accordance with such policy provisions, there are areas of policy support, such that a clear case for refusal of the application and subsequent enforcement action is not at this stage fully justified.
4. Taking account of the development plan and material considerations, therefore, a temporary planning permission for a period of three years would strike a suitable balance between meeting the housing needs of the applicant and his family in the medium term, enabling the proposed business to be established, allowing the Council to monitor the use of the site, and commence a review of local development plan policy.

Approved Plans

1. Location, Site and Layout Plan






Date:
11-Oct-2016

16/00159/FULL – Land To The South Of B910, West Of Gartlove Plantation, Alva
Change of Use of Agricultural Land to Gypsy/Traveller Site (2 Households),
Cattery and Apiary and Siting to 2 Residential Caravans and 2 Touring Caravans

Ward: Clackmannanshire East

0 25 50 75 100 Meters

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