

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

18 OCTOBER 2001

PLANNING APPLICATION – CRAWFORD PARK, MID ROAD, NORTHMUIR,
KIRRIEMUIR

REPORT BY THE DIRECTOR OF PLANNING AND TRANSPORT

Abstract: This report deals with planning application No. 01/00697/FUL for the change of use from poultry business to leisure facilities to include indoor go-karting and existing riding school for Mrs. K. J. Smith at Crawford Park, Mid Road, Northmuir. This application is recommended for conditional approval.

1 INTRODUCTION

- 1.1 Planning consent is sought for change of use of an existing poultry business to create an indoor electric powered go-karting facility. The application site is located on the north-west side of Cortachy Road in the Northmuir area of the town.
- 1.2 The site forms part of a larger agricultural holding which now appears primarily to function as an equestrian centre, the poultry rearing having recently ceased. The equestrian facilities, stables, etc. and the house of the applicant, lie immediately adjacent to the application site which comprises two typical, timber poultry houses set back behind a horse grazing area fronting Cortachy Road.
- 1.3 The poultry units are deteriorating and will require some refurbishment even to bring them back into that use. The proposal, however, is to form two links between the sheds allowing the go-kart track to extend into both of them. One building will also include a viewing area/café pool tables and toilets. The building refurbishment will comprise a complete recladding of external and internal walls, the former in light green plastic coated box profiled metal cladding with the existing roofing being covered with dark green metal profiled cladding. A new entrance canopy/door is to be provided.
- 1.4 The nearest building to Cortachy Road is some 38 metres from the road and it is intended that the land lying between be utilised to provide 43 parking spaces plus mounding (to a height of 2.5 metres) and landscaping. A new access into the site from Cortachy Road is to be formed. A location plan shows an all-weather pitch but as this lies outwith the curtilage of the planning application, is not being considered at present.
- 1.5 The Crawford Park farm holding lies in a largely open setting between Cortachy Road and Caddam Woods. To the north-east is grazing land in the ownership of the next farm unit along Cortachy Road which also seems to be used primarily for horses. To the south-west is the applicant's equestrian facilities and house and beyond that, more grassland. To the north-west are again buildings associated with the applicant's equestrian activities and beyond that, at some 110 metres distance are three houses and beyond them a small group of commercial buildings (including

Feedmix). Across Cortachy Road to the south-east are residential properties, the nearest being 60 metres from the poultry sheds.

2 APPLICANT'S CASE

- 2.1 The applicant has submitted a business plan in support of her application. Much of the information, not surprisingly, is of a financial nature but it also includes information on the company, services to be offered, market analysis, business targeted, implementation strategy, marketing, forecasts, personnel plan, etc. Clearly a considerable amount of research and preparatory work has been undertaken.
- 2.2 The plan indicates an intention to create 15 new jobs. In addition to the karting arena, a creche, internet café, pool tables and video games are proposed with a possible future expansion to include skateboarding and rollerskating. The existing equestrian business will be incorporated. Considerable emphasis is placed on the electric powered karts which are cleaner, quieter and apparently even faster than the usual petrol driven versions. Research has indicated that the main users of such facilities are aged 35-54 and often accompanied by their children (8-16). More than 50% of usage tends to be in "corporate outings". Corporate business and family groups will be the prime target for this development should it be approved. The potential customers for the go-karts is estimated at 24,000 per annum (including 18,000 from within Angus). CCTV cameras are to be installed outside.
- 2.3 The applicant also produced the returns of two surveys undertaken in the town. The first was distributed around Webster's High School and sought information on student leisure activities, views on what was lacking in Kirriemuir and reaction to the possible provision of a go-karting facility. 238 responses were received. The second survey was distributed via shops, public houses, etc. and sought information on likely usage of a go-kart track and what facilities should be provided. 136 questionnaires were returned. These surveys have influenced the content of the planning submission.

3 CONSULTATIONS

- 3.1 Subject to the usual standard road safety, etc. conditions, the Director of Roads has no adverse comments.
- 3.2 The Director of Environmental & Consumer Protection believes that the use of electric go-karts only, the proposed cladding of the buildings and the indicated mounding and landscaping, will be sufficient to eliminate any potential for noise to intrude on residential amenity.
- 3.3 NoSWA is prepared to accept a drainage connection to the mains sewers despite a general embargo being in force. The terms of the embargo still permit a connection for job creating developments and facilities beneficial to the community at large when a predominantly 'dry process' is involved. It is, however, conditional on surface water run-off being taken to a soakaway.
- 3.4 The Community Council has written (letter attached) expressing its full support. They believe the facility will be an asset to the town, an attraction for residents of all ages and could bring much needed business (e.g. corporate groups) to the town. The Community Council believes the proposals will vastly improve the appearance of the area and will eliminate the problem of "pungent smells" from the chicken houses, as well as creating some new jobs.

4 LETTERS OF REPRESENTATION

- 4.1 Many letters of objection have been received of which nine have been individually penned while numerous individually signed copies of two standardised letters have been received, 46 x letter A and 28 x letter B. The grounds of objection are wide ranging and encompass the following:-

Bad Neighbour Development – The proposal was deemed to constitute a bad neighbour development in terms of planning legislation. However, this merely demands its wider advertising and does not mean an automatic refusal.

In Green Belt – There is no formal green belt around Kirriemuir.

Contrary to Development Plan – This will be dealt with in Section 5 below.

New Junction to Cortachy Road will Present a Safety Hazard – With proper provision of sightlines the Director of Roads is satisfied with the proposed access.

Increased Traffic/Speeding on Cortachy Road a Safety Hazard – It cannot be assumed that this development will lead to increased road speeds which in any case is a Police/Roads matter and not a material planning consideration. The Director of Roads does not believe the additional traffic flows will cause a significant problem.

Increased Traffic, Wear and Tear and Danger on Unadopted Mid Road – It cannot be assumed that this development will automatically lead to this surfaced but unadopted road being utilised by users of the development and there is certainly no justification in using this as a valid reason for refusal.

Drainage/Sewage Deficiencies – NoSWA has indicated that the development can be accommodated as long as surface water is disposed of via a soakaway.

Adverse Visual Impact of the Building – The current poultry sheds are little better than eyesores. The proposal represents a refurbishment of these deteriorating buildings and must be an improvement.

Adverse Visual Impact of the Car Park – The impact of the car park will be considerably ameliorated by the proposed mounding and landscaping, indeed it will be barely seen from nearby residential properties.

Site Currently an Eyesore and Proposal Unlikely to Change This – A totally unreasonable objection as the applicant is clearly seeking a way forward for the site. Does not constitute grounds for refusal.

Converting Timber Buildings will Create a Fire Risk – The proposals will require to satisfy the Building Regulations.

Noise from Building – This will be dealt with in Section 5 below.

Will Damage the Character of the Area – Objectors claim that Northmuir is a quite residential or even rural area and not an appropriate place for this type of development. In fact the area, particularly on the west side of Cortachy Road is mixed, with currently various agricultural activities, horse grazing, equestrianism,

poultry rearing, some commercial activities (e.g. Feedmix) and some housing. Northmuir is part of Kirriemuir and, therefore, there is no reason why it should not be a suitable location for town facilities. This issue will be considered further in Section 5 below.

Will Attract the Wrong Type of People – This is not a valid planning reason for refusal.

Disturbance, Noise, Litter, Vandalism etc. will Result – This will be dealt with in Section 5 below.

Possibility of Future Expansion – This may or may not happen but in any case is within the control of the Planning Authority. The potential for future expansion, particularly in the absence of known problems created by the existence of the development, cannot be used to support a planning refusal.

4.2 Six individual letters of support have been received along with a petition signed by 359 persons (available in the Members' Lounge). A smaller petition signed by 20 local businesses has also been submitted. The reasons for supporting the proposal are:-

- valuable addition to visitor attractions;
- will create employment;
- being provided at no cost to rate payers;
- facility for the younger generation where currently little exists;
- well sited avoiding any congestion in town centre;
- bring increased economic prosperity to the town.

5 PLANNING CONSIDERATIONS

5.1 In this case the determining issues for the Committee are whether the proposal:-

- complies with the Development Plan;
- has an adverse impact on amenity;
- is acceptable on access and traffic generation grounds.

5.2 The Tayside Structure Plan 1993 is generally supportive of developments that provide facilities in small communities, thus making them more self supportive and reducing the need to travel long distances. Developments that enhance the prospects for tourism are particularly supported.

5.3 Tourism, Recreation and Sport Policy 1 in the Structure Plan is:-

“to encourage the sustainable development of the tourist industry in Tayside and support proposals which –

1. extend the tourist season including appropriate proposals for new and improved visitor attractions;
2. offer the potential for providing local employment and income;
3. are suitable for resident as well as visitor use;
4. are located in areas capable of accommodating the development and do not prejudice the environmental policies of the plan.”

- 5.4 There is little doubt that the proposal complies with criteria 1, 2 and 3 but the objectors argue that criterion 4 is not met. This will be expanded on below.
- 5.5 There are a number of Angus Local Plan 2000 policies that have some relevance to this proposal including the very first policy in the Plan, S1 : Sustainable Development. This policy seeks to ensure that development is carried out in a sustainable manner. In this respect the proposal reuses not only a brownfield site but the existing, potentially redundant buildings. Pollution is virtually non-existent because of the use of electric go-karts which neither give off emissions or significant noise. As the most recent use, poultry rearing, has caused problems and complaints, there is also the potential for this replacement development to improve the general environment.
- 5.6 At least three policies within the Sport, Recreation and Tourism section of the Local Plan have a bearing on the proposal. Under Policy RT1:-
- “Angus Council will seek to ensure an adequate provision and distribution of sports and recreation facilities throughout Angus and will support and encourage the provision of additional facilities where development proposals –
- (a) meet the sporting and recreation needs of residents, tourists and visitors while safeguarding the quality of the environment;
 - (b) are of a nature, scale and location which would not have a significantly detrimental impact on residential amenity, or lead to an unacceptable level of traffic generation;
 - (c) would accord with other policies of this Local Plan.”
- 5.7 Policy RT6 relates to Noisy Sports. While petrol engined go-karts would certainly fall within the ambit of this policy, I do not believe that electric powered go-karts within the confines of a building do. The Director of Environmental & Consumer Protection is happy that the use of electric go-karts linked with the proposed mounding and landscaping, will eliminate any potential noise problem for nearby residents.
- 5.8 Although by no means entirely intended as a tourist facility, the proposal will undoubtedly attract some tourists and, therefore, Policy RT16 Tourism Developments is applicable:-
- “Development proposals to provide new or improved tourist related facilities and attractions will be permitted and encouraged where they –
- (a) improve the range and quality of visitor attractions and tourist facilities and extend the tourist season;
 - (b) can be linked to existing attractions and generally increase the attractiveness of Angus to tourists;
 - (c) have no detrimental affect on local landscape or rural environment;
 - (d) are in keeping with the scale and character of adjacent buildings or surrounding countryside;
 - (e) do not have a significant adverse affect on the residential amenity of adjacent housing;
 - (f) accord with other policies of the Local Plan.

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- 5.9 Accordingly, the policies contained in the Sport, Recreation and Tourism section of the Local Plan are supportive of new recreational and tourist facilities. There is little doubt that the proposal has the potential to meet the requirements of these policies with just a question mark over the impact on the local environment and residential amenity.
- 5.10 In this respect it is appropriate to also consider relevant policies within the Environment section of the Local Plan. ENV1 Environmental Quality requires all proposed development to have regard to opportunities for maintaining and/or improving environmental quality. The proposal, in eliminating a troublesome use (poultry rearing with a record of complaints) and refurbishing existing but deteriorating buildings, meets the terms of ENV1.
- 5.11 The site lies outwith the designated town development boundary but under the terms of Policy ENV4 Development Boundaries this does not rule out development where there is a public interest for the development (there is known to be considerable support e.g. petition and Community Council), where there are no alternative sites within the boundary (no alternatives are on offer) and the proposal is of a scale and standard of design appropriate to its location. I believe the proposal meets all these requirements and an additional factor in its favour is that the proposal is not a totally new development but a reuse of existing buildings. In respect of alternative locations, which in any case are not on offer, it is difficult to envisage a location, other than in the countryside, that would not generate opposition. A countryside location, however, would be unsustainable and would create considerable access difficulties for many members of the community.
- 5.12 Policy ENV11 supports the reuse of redundant farm buildings and agricultural diversification and EMP10 is supportive of small scale rural employment opportunities.
- 5.13 It is apparent from this analysis of the Structure and Local Plans that the proposal is largely supported by the Plans. For reasons previously discussed traffic generation and noise, in the absence of any concerns from the Director of Roads or Director of Environmental & Consumer Protection respectively, cannot constitute reasons for refusal. However, the main concern of the objectors centres around residential amenity.
- 5.14 The last use of the buildings, which could be recommenced without requiring planning permission, was poultry rearing, the recipient of numerous complaints from local residents. The removal of the smells must therefore be a benefit to the character and amenity of the area. The current buildings are deteriorating rapidly and the proposed refurbishment works will also contribute an improvement to the character and appearance of the area. The use of the facilities will, of course, lead to more traffic in the area and persons who would otherwise not be in the area, although the majority will simply walk to the building from their parked cars and return similarly. Many of the objectors refer to the possible drawbacks that the introduction of these persons into the area will bring, indeed many are very scathing in their condemnation of the development's potential clientele and allegedly potentially anti-social activities.
- 5.15 This is a difficult area around which to frame reasons for refusing a planning application. If such behaviour is almost certain, as proven by other similar

developments for instance, or is sited in the midst of close residential development, then such grounds may be substantiated on appeal. In this case, however, there is no evidence to support the proposition that users of an indoor go-kart facility are troublesome and although the site is close to housing, it is physically divorced from them by Cortachy Road, proposed mounding/landscaping, car parking, paddocks, fields, etc.

- 5.16 Case law has demonstrated that the unlawful behaviour of patrons is a police matter and not a material planning consideration. Evidence has been produced at appeals to illustrate that the sort of external problems concerning objectors usually do not materialise. Conversely, should the application be refused for these reasons, evidence would have to be produced at the appeal to prove the reason was justified. Such evidence does not and cannot reliably be provided.
- 5.17 In conclusion, the proposed development is generally in compliance with a number of Structure and Local Plan policies, the Director of Roads is satisfied with the access, parking and traffic implications, noise is not an issue and, therefore, the Committee must decide if the advantages to the general community of Kirriemuir outweighs the impact, of which there undoubtedly will be some, on the residential amenity of local residents. It is my opinion that they do and that any grounds for refusal are insubstantial and therefore, I recommend conditional approval.

6 HUMAN RIGHTS IMPLICATIONS

- 6.1 The recommendation in this report for grant of planning permission, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any actual or alleged infringement of neighbours' rights to peaceful enjoyment of their property and/or interference with their privacy/home/family life arising from grant of this application is in accordance with the Council's legal duties under the Planning Acts to determine planning applications such as the present one and the grant of planning permission is justified and necessary in the public interest on the basis that any such actual or alleged infringement is not significant or material as balanced against the applicant's freedom to carry out reasonable development and/or activities over his property as supported by the Development Plan, and other material considerations which, as referred to in the report, are supportive of the proposed development. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

7 RECOMMENDATION

- 7.1 It is recommended that the application be conditionally approved.
1. That the premises be used for the activities applied for and hereby approved, namely indoor go-karting and ancillary facilities and for no other purposes.

2. That only electric powered go-karts be used.
3. That the premises be closed to the public no later than 10.15 p.m. on any night.
4. That in advance of the approved use coming into operation, a minimum two metre high mound be provided over the full width of the site (excluding access) between the proposed car park and Cortachy Road to the total satisfaction of the Director of Planning & Transport.
5. That no development takes place until there has been submitted to and approved by the planning authority, a scheme of landscaping.
6. That all planting comprised in the approved details of landscaping be carried out in the first planting season following the completion of the development or at earlier stages and any plants or trees which within a period of ten years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
7. That the proposed surface of the car park be agreed with the Director of Planning & Transport prior to commencement of construction.
8. That there be no external storage of go-karts, go-kart parts/accessories or any other materials associated with the business, between the buildings and Cortachy Road.
9. That the rainwater run-off from all hard surfaces be directed to a soakaway system to the satisfaction of the building control authority.
10. That visibility splays of 4.5 metres x 90 metres be provided in each direction at the junction of the proposed access or development road with the public road.
11. That no structure, wall, etc. or planting in excess of 1050mm in height be introduced into the sightline areas.
12. That the crossing(s) over the footpath and/or verge be constructed in accordance with the standards required by the Director of Roads to the satisfaction of the planning authority.
13. That the access be so designed as to prevent the discharge of surface water onto Cortachy Road.

Reasons:

1. In order that any change within the relevant use-classes may be subject to the approval of this authority.
2. In the interest of residential amenity.
3. In order that the amenity of nearby occupied premises shall be adequately safeguarded.

4. In the interests of visual amenity and to protect the amenity of nearby occupied premises.
5. In order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council.
6. In order to comply with the landscaping requirements of the local planning authority and ensure subsequent maintenance.
7. In order that the Council may verify the acceptability of the selected material(s).
8. In the interests of visual amenity.
9. In order that the drainage arrangements to serve the site are to the satisfaction of this Authority.
10. In the interests of road traffic and/or pedestrian safety.
11. In the interests of road traffic and/or pedestrian safety.
12. In the interests of road traffic and/or pedestrian safety.
13. In the interests of public safety and convenience.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/KW
10 October 2001

Alex Anderson
Director of Planning and Transport