
NORTH AYRSHIRE COUNCIL

23rd February 2022

Planning Committee

Title: Notices under Section 127, Section 145/145A and Section 33A of the Town and Country Planning (Scotland) Act 1997: Tennox Farm, Kilbirnie

Purpose: To seek authority to serve notices under Sections 127, 145/145A and 33A of the Town and Country Planning (Scotland) Act 1997 requiring:

1. the clearance of all materials and restoration of the grazing land to the northwest of the Tennox Farm;
2. the compliance with conditions attached to planning permissions granted during 2021 for developments at Tennox Farm; and
3. the submission of a planning application for the erection of unauthorised buildings (including their associated curtilages) at Tennox Farm that have been erected since 2020

Recommendation: Agree that authority be given to serve Notices under Sections 127, 145/145A and 33A of the Town and Country Planning (Scotland) Act 1997 in respect of the unauthorised land uses, breaches of conditions and development at Tennox Farm

1. Executive Summary

- 1.1 The Council has received a number of reports in recent years that land at Tennox Farm near Kilbirnie has been developed with a number of unauthorised buildings as well as formation of a large yard area. In addition, numerous lighting schemes have been installed on the land, resulting in significant light pollution in the surrounding rural area.
- 1.2 An enforcement notice under Section 33A of the Act was served on the owner of the land in February 2019. The notice required the submission of a planning application in respect of an unauthorised riding arena, a metal shed with blockwork porch and a stable block (ref. 18/00019/ALTS). Since that time, two planning applications have been made and permission has now been granted, subject to conditions, for the unauthorised works (ref. 21/00104/PP and 21/00105/PP).
- 1.3 To date, conditions that were attached to the above planning permissions have not been complied with, despite regular contact having been made by officers.

- 1.4 In addition, complaints have been received about further unauthorised works at Tennox Farm dating back to 2020. The owner has been advised on the need for planning permission on a number of occasions. An application was made for the yard area to the west of the steading but was subsequently withdrawn. No applications have been submitted for the more recent building works that are subject of complaints.

2. Background

- 2.1 As noted above, an enforcement notice was served on the owner of Tennox Farm in 2019 in relation to unauthorised building works. Whilst the matters raised at that time have since been addressed through the submission of applications and subsequent grants of planning permission, it is noted that several of the conditions have been breached.

- 2.2 In respect of planning permission ref. 21/00104/PP, which relates to the erection of a general-purpose storage shed, condition 2 states:

That, within 2 months of the date of this planning permission, hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a revised scheme of lighting for the building and its approach road from the B780, the aim of which shall be to significantly reduce the adverse visual impacts and glare of the existing lighting scheme on the night sky in the rural area around Tennox Farm. Thereafter, the revised lighting scheme shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority within three months of the approval of such details.

Reason: In the interest of the amenity of the area.

- 2.3 In respect of planning permission ref. 21/00105/PP, which relates to the erection of a stables building with riding arena, condition 3 states:

That, prior to the recommencement of the development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority details of the proposed external lighting scheme for the building and associated riding arena. The details shall include measures to significantly reduce the adverse visual impacts and glare on the night sky in the rural area around Tennox Farm. Thereafter, any scheme that may be approved shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority prior to the development coming into operation.

Reason: In the interest of the amenity of the area.

- 2.4 The failure of the owner to comply with the above conditions is proving harmful to the amenity of the rural area, resulting in light pollution and further complaints from local residents. Due to the elevated position of Tennox Farm, as well as the higher ground to the west and on the opposite (east) side of the Garnock Valley, the visual impact of the lighting scheme is affecting a very wide area. Inspections by officers have confirmed that the current lighting schemes at Tennox Farm are excessive, with considerable light spill beyond the immediate confines of the site, due to the number of lights, their brightness levels and their open-sided design. The owner has continued to operate and install more lighting despite the limitations and requirements set out in the above conditions.

- 2.5 With regard to the land to the northwest of the main steading at Tennox Farm, a small yard has been significantly extended since 2019. The extended yard, which has an area of approximately 1 hectare, has been formed by scraping the topsoil from a field and forming a bund to its western edge. The land has been surfaced using compacted aggregates and is being used to store construction materials and what appears to be waste from building operations. The yard is particularly visible when viewed from the B784 road to the west. The B784 is at a higher ground level and provides views over Tennox Farm and the surrounding rural area. A retrospective planning application (in conjunction with the unauthorised storage shed) was submitted during 2020 (ref. 20/00446/PP). However, with no clear purpose for the yard in the submission, the application was withdrawn pending further discussion on the suitability of it being retained, or alternatively, restored to grazing land. To date, no further application has been made and the yard remains unauthorised.
- 2.6 Further building works which have taken place at Tennox Farm since 2020 include the erection of a substantial single storey building of domestic design and appearance together with an associated curtilage and several smaller scale outhouses. The domestic building is L-shaped on plan and is located at the eastern side of the steading. An application for Planning Permission has not been made and the buildings and its curtilage are therefore unauthorised. The building is partially visible from the B780 to the east of Tennox Farm as well as being wholly visible from the B784 to the west.
- 2.7 As noted, Tennox Farm is within a rural area of North Ayrshire. The impact of the unauthorised land uses and developments are considered to be harmful to the amenity of the countryside. In addition, the scale of the developments are now such that the planning policy considerations associated with the more recent works would be potentially contrary to Strategic Policy 1, The Countryside Objective, of the adopted North Ayrshire Local Development Plan.

3. Proposals

- 3.1 It is recommended that Notices under Section 127, 145/145A and 33A of the Town and Country Planning (Scotland) Act 1997 (as amended) are served on the land owner(s) of Tennox Farm as follows:
1. **Under Section 127:** The clearance of all materials and restoration of the grazing land to the northwest of the Tennox Farm;
 2. **Under Section 145/145A:** The compliance with conditions attached to planning permissions granted during 2021 for developments at Tennox Farm (references 21/00104/PP and 21/00105/PP);
 3. **Under Section 33A:** the submission of a planning application for the erection of unauthorised buildings (including their associated curtilages) at Tennox Farm that have been erected during or since 2020.
- 3.2 In these circumstances, the timescale for compliance with the notices should be no greater than 6 weeks from their date of service.

4. Implications/Socio-economic Duty

Financial

4.1 None.

Human Resources

4.2 None.

Legal

4.3 The proposed Enforcement Notices would be served in accordance with statutory procedures. Non-compliance with Enforcement Notices is an offence which the Council could report to the Procurator Fiscal.

Equality/Socio-economic

4.4 None.

Environmental and Sustainability

4.5 The proposed Enforcement Notices would address the ongoing matter of unauthorised development and use of land at Tennox Farm, Kilbirnie in the interests of safeguarding the amenity of North Ayrshire's rural area.

Key Priorities

4.6 The proposed Enforcement Notices would support the Council Plan priority: "Vibrant, welcoming and attractive places"; and the adopted Local Development Plan Spatial Strategy and in particular The Countryside Objective.

Community Wealth Building

4.7 Any direct action taken under the Planning Acts can support progressive procurement.

5. Consultation

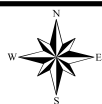
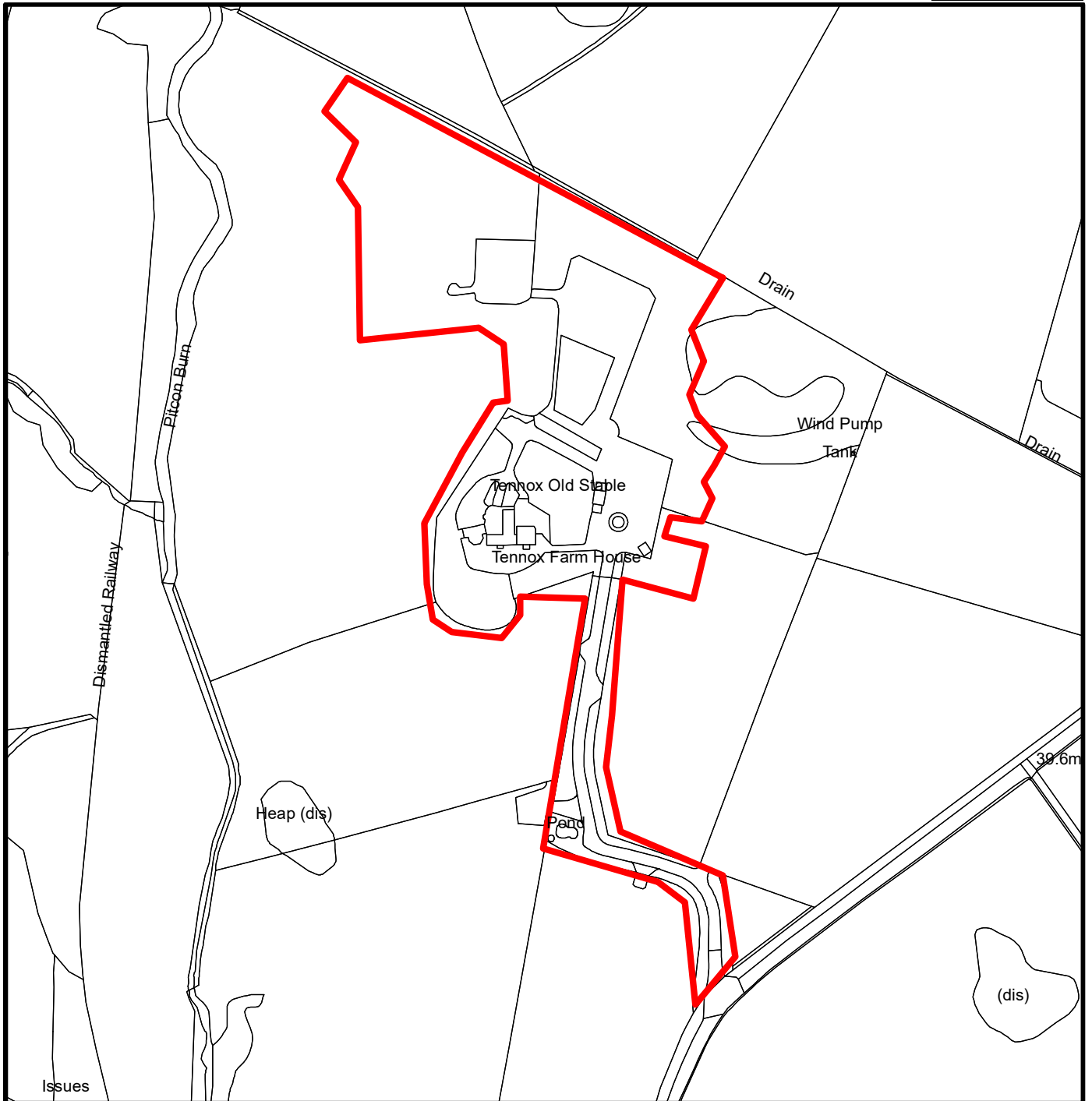
5.1 None.

JAMES MILLER
Chief Planning Officer

For further information please contact **Mr A. Hume, Senior Development Management Officer**, on **01294 324318**.

Background Papers

Notices under Section 127, Section 145/145A and
Section 33A of the Town and Country Planning
(Scotland) Act 1997: Tennox Farm, Kilbirnie



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