

**Business Operations and Partnerships Department**

**Director of Business Operations & Partnerships: Louise Pringle**

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Date: 29 September 2023

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TO: Councillors B Cunningham (Chair), J McLean (Vice Chair), P Edlin, A Ireland, C Lunday, M Montague and A Morrison.

**PLANNING APPLICATIONS COMMITTEE**

A meeting of the Planning Applications Committee will be held in the Council Chamber, Council Headquarters, Eastwood Park, Giffnock on **Wednesday 4 October 2023 at 2.00pm.**

The agenda of business is as shown below.

**Louise Pringle**

L PRINGLE

DIRECTOR OF BUSINESS OPERATIONS & PARTNERSHIPS

**AGENDA**

1. **Report apologies for absence.**
2. **Declarations of Interest.**
3. **Applications for planning permission for consideration by the committee - Report by Director of Environment (copy attached, pages 3 to 10).**
4. **Section 33A notice - 29 East Kilbride Road, Busby, G76 8JY – Report by Director of Environment (copy attached, pages 11 to 12).**

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A recording of the meeting will also be available following the meeting on the Council's YouTube Channel <https://www.youtube.com/user/eastrenfrewshire/videos>

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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997**

Index of applications under the above acts to be considered by Planning Applications Committee on  
04.10.2023

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**Reference No:** 2022/0660/TP

**Ward:**

**Applicant:**

Mr Ian Darroch  
Flat 7  
10 Adamswell Street  
Glasgow  
Scotland  
G21 4DD

**Agent:**

**Site:** Formerly Part Of Pilmuir Quarry Pilmuir Road Newton Mearns East Renfrewshire

**Description:** Change of use of field to commercial dog walking facility, with associated fencing, access and parking (part retrospective)

**Recommendation:** Approve Subject to Conditions

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# REPORT OF HANDLING<sup>4</sup>

Reference: 2022/0660/TP

Date Registered: 3rd July 2023

Application Type: Full Planning Permission

This application is a Local Development

Ward:

Co-ordinates: 251999/:654569

Applicant/Agent:

Applicant:

Agent:

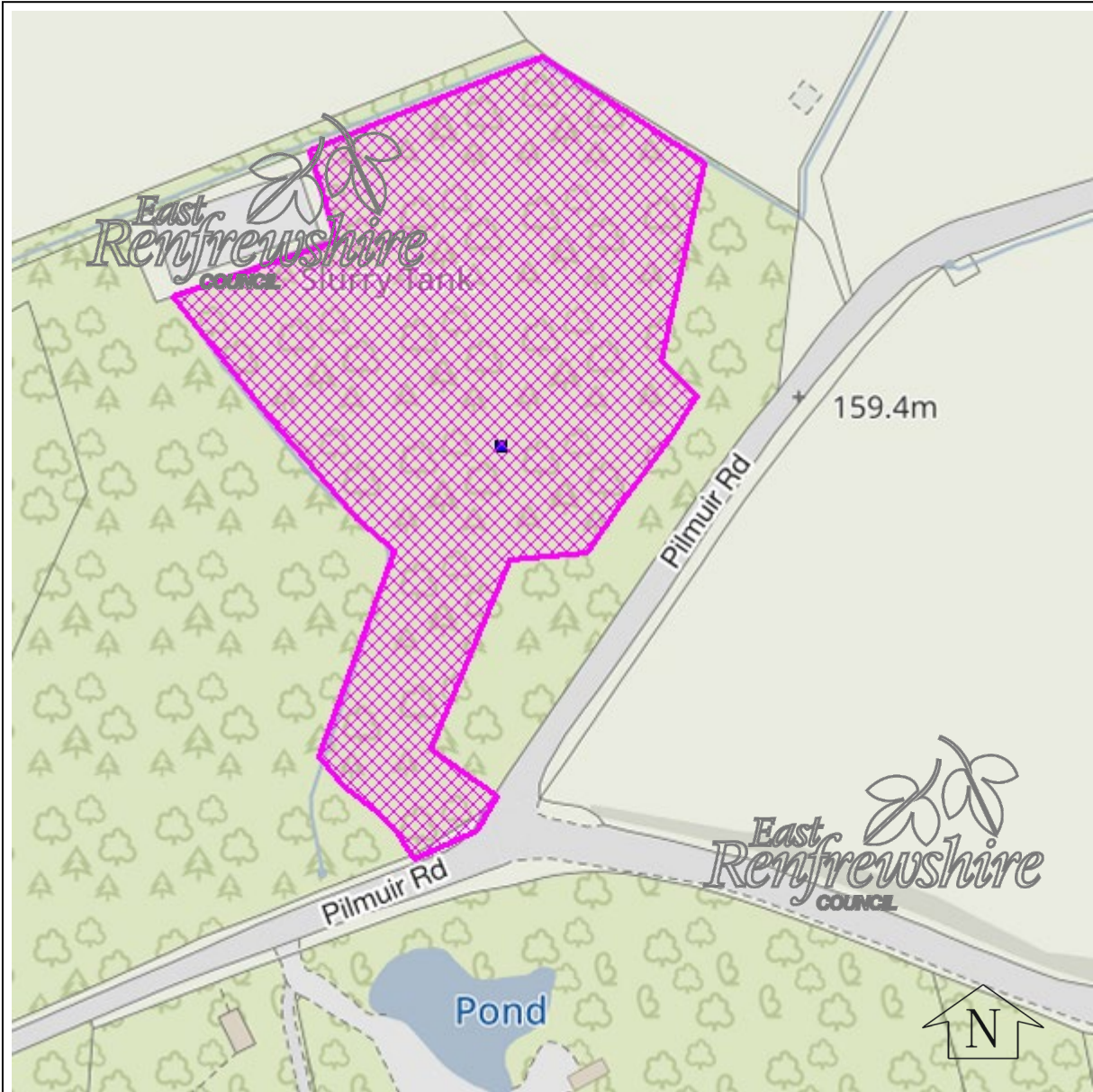
Mr Ian Darroch  
Flat 7  
10 Adamswell Street  
Glasgow  
Scotland  
G21 4DD

Proposal:

Change of use of field to commercial dog walking facility, with associated fencing, access and parking (part retrospective)

Location:

Formerly Part Of Pilmuir Quarry  
Pilmuir Road  
Newton Mearns  
East Renfrewshire



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**CONSULTATIONS/COMMENTS:**

East Renfrewshire Council Environmental Health Service	No objections subject to conditions
East Renfrewshire Council Roads Service	No objections
Nature Scot	No comment, referred to their guidance

**PUBLICITY:**

21.07.2023                      Evening Times                      Expiry date 04.08.2023

**SITE NOTICES:**              None.

**SITE HISTORY:**              None.

**REPRESENTATIONS:** 18 representations have been received including one in support of the proposal. Representations can be summarised as follows:

- Dispute site description
- Contrary to Council policy
- Out of keeping with the area
- Habitat impact
- Tree loss
- Road safety and pedestrian hazard
- Access unsuitable
- Noise nuisance
- Disturbing animals
- Existing unauthorised works
- No need for such development
- Lighting

**DEVELOPMENT PLAN & GOVERNMENT GUIDANCE:**

The relevant policy documents can be found at the following links:

National Planning Framework 4 (NPF4):  
<https://www.gov.scot/publications/national-planning-framework-4/>

Adopted East Renfrewshire Local Development Plan 2 (LDP2):  
<https://www.eastrenfrewshire.gov.uk/ldp2>

**SUPPORTING REPORTS:**

Preliminary Ecological Appraisal --	Considers the habitat value of the site and adjacent land, including the presence or otherwise of protected species.
Traffic Survey/results-	Assesses the frequency and speed of traffic along Pilmuir Road in the vicinity of the site.

**ASSESSMENT:**

Planning permission is sought for the formation of a dog exercise enclosure in the Pilmuir Holdings area in the green belt approx. 450m west of Newton Mearns. It is considered a Local

development under the Town and country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 due to its scale.

The application has however been subject to more than 10 objections and therefore under the Environment Department's scheme of delegation is required to be considered by the planning applications committee.

The application site is north of Pilmuir Road and in the easternmost portion of a larger wooded area owned by the applicant. A minor water course flows north through the larger area. In character, the application site, whilst supporting a number of trees, is more open and mainly under grass at ground level. The proposed plans extend to the formation of a gated enclosure sited off and elevated from the public road and bound by means of 2m high fencing.

A new vehicular access is proposed south of the enclosure opposite the entrance of a former quarry. A further gate is proposed mid-way along the curved access road to a small parking area within the enclosed area. The proposed site plan indicates the extent of retained trees on site, proposed tree loss and new tree planting. The new planting is where a new, unauthorised access point had been formed closer to Newton Mearns.

The initial planning application included this access but initial consultations with the Council's Roads Service determined it to be unsuitable. The application was amended mainly in respect of the new access at the sites south end. The submitted application form indicates opening hours from 07.00-21.00 April to September and October to March 07.00-19.00.

The adjacent uses are of a mixed nature. The wider Pilmuir Holdings is a group of smallholdings dating from the inter-war period. Several have been redeveloped to commercial uses with large sheds and others redeveloped with larger houses. In the wider context, the site lies within an agricultural landscape on the rural/urban fringe. The closest house to the site is approx. 200m to the west.

Planning applications are required to be considered against the terms of the Development Plan. The development plan now extends to National Planning Framework (NPF) 4 and East Renfrewshire Council's Local Development Plan (LDP2). LDP2 was adopted in March 2022 and NPF4 in February 2023.

NPF4 outlines Scottish Governments planning policy, firstly through the establishment of a Spatial Strategy and then by means of National Planning Policy. Policies 1, 3, 6 and 8 are considered most relevant to this assessment.

Policy 1 Tackling the Climate and Nature Crises - Applies to all development proposals. It recognises the climate crises and its distinctive aim is to encourage promote and facilitate developments that addresses the global climate emergency and nature crises. It requires LDP's to address the global climate emergency and nature crises by ensuring the spatial strategy will reduce emissions and adapt current and future risks of climate change by promoting nature recovery and restoration in their area.

In terms of the aims of this policy, the proposal responds to a recognised demand providing a more local destination for dog walkers. A rural location is considered acceptable as the increased traffic movements anticipated are not significant.

The proposal is considered to be in keeping with the aims of the policy.

Policy 3 Biodiversity - seeks to protect biodiversity, reverse its loss and deliver positive effects from development. Expectations from local authorities are outlined as protecting, restoring and enhancing biodiversity in a manner proportionate to the nature of the development.

The site has a mixed history and there is some evidence of it being utilised as part of the mining operations at the nearby quarry.

The preliminary ecological appraisal submitted in support of the application advises that the habitat /biodiversity value of the site itself is not in itself noteworthy. In terms of development, the level of actual disruption to the existing flora is limited and much of it will be left unaltered. The appraisal also suggests works that would improve the biodiversity of the area in the applicant's adjacent landholding, for example through the introduction of bat and bird boxes and enhancing the understorey.

The option of securing this suggestion and introducing similar elements on the application site including fuller details on the existing trees on site could be secured by means of a condition.

Policy 6: Forestry, Woodland & Trees - Seeks to protect and expand forests, woodland and trees.

The site is not protected by a Tree Preservation Order. Currently the only means to effectively protect trees not in direct Council ownership is to designate such an order. There is evidence that the trees on site have been there for approx. 20 years and the applicant has confirmed an attempt to keep most of them.

The proposal indicates the retention of a number of trees. It is noted that there has been a modest loss of trees with the formation of the unauthorised access point. It is understood that additional tree removal was carried out but this was to address diseased larch trees.

The proposed plan indicates the reinstatement of the unauthorised access with planting. Full details of this can be sought by condition if planning permission is approved.

Taking the above into account it considered that the proposal accords with this policy.

Policy 8: Green Belts - Seeks to encourage, promote and facilitate compact urban growth and use the land around our towns and cities sustainably (see LDP2 Policy 3 below).

In terms of LDP2, Policies D1, D3 and D4 are considered the most relevant.

Policy D1 is a criteria based policy addressing a number of considerations. It requires that development does not have an adverse impact on the character or amenity of the area, can be safely accessed and raise no unacceptable amenity impacts.

Policy D3 confirms the Council's position in respect of greenbelts, requiring that proposals in the first instance do not compromise the function of the green belt; to preserve the landscape setting of urban areas and to allow access for outdoor recreation. It states that changes of use for countryside recreation in the greenbelt will be supported in principle.

The proposal is for countryside recreation and is therefore supported by LDP2 in principle. It does not involve a significant amount of development and it is therefore not considered that it would adversely affect the character of the rural area or compromise the function of the greenbelt. Furthermore, it is not considered that it would compromise the function of the green belt or green network.

The site is some distance from neighbouring properties and, given the nature and scale of the intended use, it is not considered that it would generate excessive noise. The Council's Environmental Health Service has raised no issue in this regard. The fencing is considered to be acceptable, adequate for the intended purpose due to its height and construction. It is also being constructed a significant distance from the road (averaging some 13m) with retained trees offering a degree of natural screening along its longer side from Pilmuir Road. Noise impact is an amenity matter but has been considered by the Councils Environmental Health Service and they have raised no objection to the proposal.

The potential, for barking dogs disturbing animals is noted but this is an issue for the dog owners themselves and is not considered to be a noise source that would result in a significant loss of amenity. Additional buffer areas from adjacent fields could be sought by means of a condition as a precautionary measure if considered necessary.



Noting the above it is not considered that the proposal raises any significant issues with regard to Policies D1 or D3.

In addition, Policy D4 refers to green networks which are intended to facilitate increased responsible access across the Council area. This proposal can be considered as supporting that aim.

For the reasons set out above, it is considered that the proposal accords with the Development Plan. Accordingly the planning application should be approved unless material considerations indicate otherwise.

In this case the material considerations are considered to be the consultations and representations.

#### Consultations

Both the Council's Roads Service and Environmental Health Service are satisfied with the proposed development. However certain matters will require securing by means of conditions if the planning application is approved. For example the reinstatement of the area where the unauthorised access had been formed. Potential noise nuisance would be a matter for the Council's Environmental Health Service.

The third party representations are summarised above. It is considered that the matters raised are addressed in the preceding paragraphs.

In conclusion, the proposal accords with the Development Plan and there are no material considerations that indicate the application should not be approved. It is therefore recommended that the application is granted subject to the conditions set out below.

**PLANNING OBLIGATIONS:** None.

#### **RECOMMENDATION:**

1. The development hereby approved must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted.

Reason: To comply with the provisions of section 58 of The Town and Country Planning (Scotland) Act 1997, as amended.

2. Prior to the commencement of the use of the site access road as per approved drawing BL(0-)003 Rev C shall be implemented in full.

Reason: In the interests of road safety at the locus.

3. Within 4 weeks from the date of this permission, a landscape management plan extending to full details of trees on site/ proposed new trees and biodiversity improvements shall be submitted to and approved in writing by the Planning Authority. Said details shall provide for an additional 5m separation along the northern/eastern sides of the application site. Thereafter, the plan shall be implemented in full by end of February 2024 and maintained in perpetuity unless otherwise agreed in writing by the Planning Authority.

Reason: in the interest of biodiversity and amenity at the locus.

4. Within 4 weeks from the date of this permission, a waste management plan, detailing the procedures and processes for the storage, collection and disposal of dog waste and litter, shall be submitted to and approved in writing by the Planning Authority. Thereafter, the waste management procedures and processes shall be implemented in full in accordance with the approved waste management plan by 8<sup>th</sup> December 2023 and operated in perpetuity unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the effective storage and disposal of waste to safeguard the amenity of the area.

5. Details for the removal of the unauthorised access and the re-instatement of the verge and planting shall be submitted by the 8<sup>th</sup> of November 2023, for the approval in writing by the Planning Authority. Thereafter, said works shall be implemented in full within six weeks of that approval.

Reason: In the interest of road safety and the amenity of the locale ensure the effective storage and disposal of waste to safeguard the amenity of the area.

6. Details of any lighting for the proposed development shall be submitted for the written approval of the planning authority prior to the commencement of development. Thereafter said details shall be implemented in accordance with those details.

Reason: To safeguard the residential amenity of the occupants of the adjacent dwellings.

**ADDITIONAL NOTES:** East Renfrewshire Council Roads Service should be consulted regarding a Road Opening Permit.

**ADDED VALUE:** Conditions have been added that are necessary to control or enhance the development and to ensure the proposal complies with the Council's Local Development Plan policies.

**BACKGROUND PAPERS:**

Further information on background papers can be obtained from Mr Ian Walker on 0141 577 3001.

Ref. No.: 2022/0660/TP  
(IAWA)

DATE: 26<sup>th</sup> September 2023

**DIRECTOR OF ENVIRONMENT**

EAST RENFREWSHIRE COUNCILPLANNING APPLICATIONS COMMITTEEOctober 4<sup>th</sup> 2023Report by Director of EnvironmentSection 33A notice - 29 East Kilbride Road, Busby, G76 8JY.UPDATE**1.0 INTRODUCTION**

- 1.1. This report is to update members on the service of a Notice under Section 33A of the Town and Country Planning (Scotland) Act 1997, authorised by the Planning Applications Committee on 7<sup>th</sup> June 2023, in respect of unauthorised development at 29 East Kilbride Road, Busby, G76 8JY.

**2.0 BACKGROUND**

- 2.1 Members will recall that two timber outbuildings and a 2-metre-high fence were erected without planning permission at 29 East Kilbride Road, Busby. The unauthorised development has been the subject of several complaints from adjacent residents.
- 2.2 The Planning Service wrote to the landowner and requested submission of the required planning application. This was submitted on 17<sup>th</sup> March 2023 but then withdrawn the following day, as the landowner wrongly believed planning permission was not required. An email sent from the Planning Service on the 31<sup>st</sup> March advised the landowner that formal action would be considered if a planning application were not submitted before 14<sup>th</sup> April 2023. The landowner declined to submit an application and confirmed that he was taking legal advice on the matter.
- 2.3 At its meeting on 7<sup>th</sup> June 2023, the Planning Applications Committee authorised the service of a Section 33A Notice. This is a formal notice requiring the landowner to submit the required planning application in retrospect. Whilst there are no penalty provisions for failing to comply with this notice, it constitutes enforcement action under the relevant legislation and leaves it open to the Planning Service to pursue further action in terms of an enforcement notice at any time. In addition, the notice “stops the clock” towards immunity being reached i.e. after four years following the breach of planning control, the development would otherwise become lawful and no enforcement action could be taken.

**3.0 UPDATE**

- 3.1 To date, the landowner has not complied with the terms of the Section 33A Notice and has refused to submit the required planning application.
- 3.2 To clarify, failure to submit a retrospective planning application does not mean that the Planning Service is required to serve an enforcement notice to seek removal of the structures. Circular 10/2009 (Planning Enforcement) sets out Scottish Government policy on enforcement and states that planning authorities should consider whether any breach of control would affect unacceptably either public amenity or the use of land and buildings meriting protection in the public interest. For example, it is usually

inappropriate to take formal enforcement action against a trivial or technical breach of planning control which has no material adverse planning implications.

- 3.3 The unauthorised works relate to the erection of outbuildings for domestic purposes within an existing domestic curtilage and a timber boundary fence. The use of the outbuildings for purposes ancillary to the dwelling would not therefore be out of character with the residential use of the site and would not give rise to significant additional noise and disturbance than would normally be associated with a residential garden.
- 3.4 Whilst the fence and outbuildings are visible from out with the site and from the adjacent properties on Printer's Land, they are nevertheless domestic in scale, their timber finish is appropriate to a domestic garden location, and helps soften their appearance. They are therefore considered to be acceptable in appearance and do not significantly detract from the character or visual amenity of the area. They would, meet the permitted development requirements of Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, were it not for the fact they sit forward of the principal elevation of the house where that elevation faces a footpath. As a result, the development requires planning permission.
- 3.5 In this instance, the minimal impact of the unauthorised development, as discussed above, is not considered to justify further action.

#### **4 CONCLUSIONS**

- 4.1 The Planning Applications Committee authorised the service of a Section 33A Notice on 7<sup>th</sup> June 2023 in respect of the unauthorised development at 29 East Kilbride Road, Busby. The applicant has refused to comply with the terms of the notice however for the reasons noted above, it is considered that the impact of the unauthorised works does not justify further enforcement action.

#### **5.0 RECOMMENDATION**

- 5.1 It is recommended that no further action is taken in respect of the erection of outbuildings and a fence within the garden ground associated with the property at 29 East Kilbride Road, Busby, G76 8JY.

#### **6.0 BACKGROUND PAPERS:**

- 6.1 Further information on background papers can be obtained from Mr Alan Pepler on 0141 577 3001.

DATE: 27<sup>th</sup> September 2023

**DIRECTOR OF ENVIRONMENT**