**TCP/11/16(197)**
**Planning Application 11/01373/FLL – Erection of 3 dwellinghouses on land 300 metres east of Kingswell, Kinfauns**

# PAPERS SUBMITTED BY THE APPLICANT

29 JUN 2012

# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

CHIEF EXECUTIVES DEMOCRATIC SERVICES 29 JUN 2012 RECEIVED

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**Use BLOCK CAPITALS if completing in manuscript**

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**Applicant(s)**

Name: MR N. LOWE

Address: KINGSWELLS, MUIR HALL ROAD, KINFAUNS, PERTH

Postcode: PH2 7LL

Contact Telephone 1: —

Contact Telephone 2: —

Fax No: —

E-mail*: [redacted]

**Agent** *(if any)*

Name: MR C. M. RICHARDSON

Address: RISTOL LTD, TOUCH ESTATE, STIRLING

Postcode: FK8 3AQ

Contact Telephone 1: 01786 465782

Contact Telephone 2:

Fax No:

E-mail*: MARK.RICHARDSON@STUDIORISTOL.co

Mark this box to confirm all contact should be through this representative: ☑

* Do you agree to correspondence regarding your review being sent by e-mail? Yes ☑ No ☐

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Planning authority: PERTH + KINROSS COUNCIL

Planning authority's application reference number: 011/01373/FLL

Site address: KINGSWELLS, MUIR HALL ROAD, PERTH PH2 7LL

Description of proposed development: ERECTION OF 3 DWELLING HOUSES

Date of application: 2/9/2011

Date of decision (if any): 11/4/2012

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

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**Nature of application**

1. Application for planning permission (including householder application) ☑
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**Reasons for seeking review**

1. Refusal of application by appointed officer ☑
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☐
2. One or more hearing sessions ☑
3. Site inspection ☑
4 Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

SEE ATTACHED STATEMENTS

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

| | Yes | No |
|---|---|---|
| 1. Can the site be viewed entirely from public land? | ☑ | ☐ |
| 2 Is it possible for the site to be accessed safely, and without barriers to entry? | ☑ | ☐ |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED STATEMENT

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☑

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

SEE ATTACHED STATEMENT

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

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**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- [x] Full completion of all parts of this form
- [x] Statement of your reasons for requiring a review
- [x] All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

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**Declaration**

**I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.**

Signed [redacted] Date 22 Jul 2017.

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# Planning Statement

**Ristol Ltd**
Touch Business Centre
Touch Estate
Cambusbarron
Stirling FK8 3AQ

**OFFICE** 01786 465 782
**FAX** 01786 471 438
**EMAIL** info@studioristol.com

**studioristol.com**

***Date:***
22nd June 2012

***Statement of Grounds for Review:***
Application number 11/01373/FLL

The erection of three dwelling houses on land at 300 meters east of Kingswells, Kinfauns.

Applicant – Mr N Lowe, Kingswells, Kingswells.

Agent – Ristol Ltd, Touch Estate, Stirling.

Reference: Kingswells
Job Reference: 5000-03-47

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Issued

Date: 22nd June 2012 Checked: Mark Richardson

Signature: [redacted]

Job Ref: 5000-03-47

## 1.0 Introduction

### 1.1 Proposal

1.1.1 Planning Application 11/01373/FLL was submitted on the 8th August 2011. The target determination date was 11th November 2011 and a decision notice was issued on 11th April 2012.

1.1.2 The applicant, Mr N Lowe sought planning permission for the erection of three dwelling houses on land within his ownership, 300 meters east of Kingswells, Kinfauns, as shown in Appendix 1.

1.1.3 The planning application documentation and supporting statement are found in Appendices 2 to 5.

1.1.4 This detailed planning application is for three detached residential properties, served by an existing access. Two house types are proposed.

1.1.5 The design of the properties reflect the policy framework contained in *Perth and Kinross Council's Housing in the Countryside Policy 2009.* Careful consideration has been given to the local vernacular and landscape setting and character, with ridge heights set at 1½ story, the layout adopting a linear form and the houses orientated on a north-south axis. Material treatment is a mix of stone, painted render and timber, with slate roofs, whilst the siting of the properties has been designed to ensure the buildings fit within the building group and protect the amenity of the adjoining properties.

1.1.6 The design approach was informed by the parameters of the listing of the adjoining Kingswell farmhouse in order to ensure the character and setting of the farmhouse is maintained. An evaluation of the proposal in relation to the farmhouse was undertaken by renowned conservation architects Simpson and Brown which established that the proposed development subject of this application would not impact on the character and setting of Kingswell farmhouse.

1.1.7 An integral element of the design process was the use of extensive tree planting between each proposed residential plot to reinforce the integration of the properties into the wider landscape to ensure landscape fit and enhance the AGLV.

1.1.8 The internal site road will be tarmaced with passing bays with the access built to adoptable standards before resorting to a private road. No street lights are proposed.

1.1.9 The proposed properties will be served by mains water, electricity and BT. Heating, foul and surface water will be private. Individual septic tanks are proposed for each of the properties and surface water will be dealt with through a herringbone drain. There is sufficient area to provide for this within the application site and the ground conditions have suitable porosity for drainage.

1.1.10 The planning application was preceded by a pre-application review with the Planning Officer, which included an accompanied site visit with the applicant's planning

consultant and architect, the issue of concept drawings and subsequent written response. The Planning Officer's pre-application advice is found in Appendix 6.

1.1.11 In order to assist determination of the application in response to the pre-application consultation and subsequent dialogue with the Planning Officer, the applicant invested in the design work necessary to take the proposal forward as a detailed planning application with an accompanying comprehensive landscape and visual assessment of the proposal by an independent landscape consultant, Ian White. This is found in Appendix 5.

1.1.12 The applicant contests the reasons for refusal of the planning application and the authority's justification for the reasons as listed in the decision note, which can be found in Appendix 7.

## 1.2 Reasons for Refusal

1.2.1 The planning application was assessed under delegated powers. The Decision Notice with reasons for refusal is found in Appendix 7. The Development Quality Manager stated the proposal failed to comply with the development plan for the following reasons:

*1. As the proposal will have a visible impact on the landscape character of an area designated as being of Great Landscape Value (AGLV), the proposal is contrary to Policies 12 and 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), both of which state that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.*

*2. As a result of the proposal being contrary to a policy relating to a specific designation within the relevant Local Plan Policy 12 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000), the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) which seeks to ensure the Local Plan policies relating to specific designations are complied with.*

*3. The proposal is contrary to Policy NE5: Green Belt of the Perth and Kinross Council Proposed Local Development Plan 2012 as the site is located within an area identified as Green Belt. This policy states that the Housing in the Countryside Policy does not apply in the Green Belt.*

1.2.2 These proposals were justified by the planning authority because *"the proposal is contrary to the Development Plan, and there are no material reasons which justify approving the application"*.

1.2.3 These grounds for review will examine the reasons for refusal and the planning authority's justification for the reasons. It will present the applicant's case that none of the three reasons are supported, based on an analysis of the Development Plan and examination of a significant amount of material considerations that would offer a balance in support of the proposals. These grounds of review also query the

reasonableness of the authority's decision, as set out in Section 1.3 below. The Local Review Body is respectfully requested to reconsider the application based on the review of the facts before them and grant planning permission.

## 1.3 Reasonableness of Decision

1.3.1 The applicant will demonstrate how they consider the reasons for refusal and the report of handling that justifies the decision to refuse planning permission are not reasonable. With regard to Scottish Government Guidance, Circular 6/1990 *Awards and Expenses in Appeals and other Planning Proceedings and in Compulsory Purchase Order Enquiries* the applicant consider the following points merit a position to question the reasonableness of the planning decision:

1. the planning authority has reached its decision solely on the grounds that the proposal does not accord with the provision of the Development Plan, without having any meaningful regard to other material considerations. This includes national policy guidance issued post adoption of the Perth Area Local Plan 1995, recent Council decisions on similar applications and the Landscape and Visual Assessment accompanying this application.

2. the reasons for refusal contained within the decision notice are based on three grounds, yet the Report of Handling as contained in Appendix 8 specifies only two reasons for refusal.

3. the target determination was the 1st November 2011, by which time all statutory consultees, public responses and supporting information from the applicant had been lodged with the Council. Despite extensive follow up correspondence and phone calls with assurances from the Planning Officer that the application would be determined expeditiously as evidenced in Appendix 9, it took a further six months before a decision was issued. No reasons for this extensive delay have been provided and as such the applicant has limited confidence in the planning system, as provided for in the *Scottish Planning Policy* and *Circular 4/2009 Development Management Procedures*.

1.3.2 Within the Planning Officer's Delegated Report of Handling contained in Appendix 8, the Officer considers that ultimately the "*key tests of the acceptability of the planning application are based on two issues, a/ whether or not the site has good existing landscape framework and the proposed residential uses are compatible with its surroundings and b/ whether or not the proposal is acceptable in land use terms bearing in mind the provisions of the Development Plan*". As the Delegated Report of Handling highlights (Appendix 8), the Planning Officer concludes that development of the site will materially change the appearance of the landscape and as such does not allow for the opportunity to depart from the Development Plan or the *Housing in the Countryside Policy* (2009). No landscape evidence has been given to support this assessment, which is totally at odds with the independent and rigorous landscape and visual assessment accompanying the planning application. Despite initially accepting

the invitation to meet the applicant's profession team in order to review the landscape and visual assessment, the Planning Officer withdrew from this position with the result that the applicant has no confidence in officers assessment of the landscape and visual issues and therefore the basis for the reasons for refusal.

1.3.3 There have been no statutory objections about the proposed development, including from statutory agencies responsible for the environment, notably Scottish Natural Heritage. Furthermore, no objections were submitted by the Council's Landscape Officer in relation to the proposal.

**1.4 Proposed Review Method**

1.4.1 The notice of review enclosed with this submission respectfully requests the means of examination by an assessment of review documents, a site visit and a hearing.

1.4.2 A site visit would give the local review body a first hand observation of the site, its relationship to adjoining buildings and its landscape context.

1.4.3 A hearing would also enable the applicant to address the Local Review Body, if granted to do so, in order to present the landscape and visual information accompanying the planning application in order to ensure that the issue of landscape impact and the applicants evidence that the proposal will enhance the landscape are put before the Board. This will address the concerns expressed above on confidence in the decision making process by exploring through a professional team, the landscape issues raised by the review.

**2.0 Grounds for Review**

2.1 This section will address the three reasons for refusal of application 11/01373/FLL, dated 11th April 2012, as found in Appendix 7.

2.2 In order to assist consideration of the grounds for review, the following observations are made.

2.3 Firstly, through the pre-application consultation process, the Planning Officer established that the key issue for consideration was landscape impact. This issue was heightened by virtue of the fact that the review site lies within the area of great landscape value (AGLV). As stated in Section 1 above, the applicant considers that the landscape and visual assessment accompanying the planning application has not been correctly evaluated on the basis that the applicant's assessment clearly demonstrates that the proposed development would have a materially positive impact on the landscape (Appendix 8). The Planning Officer contends that the site is entirely capable of absorbing the development proposed and appears to argue that the determining issue is a personal view on the significance of the impact on the visual appearance of the landscape. The Planning Officer does not state this will be a negative impact, just a change. It therefore appears that the Planning Officer has refused planning consent for a proposal that will have a significant positive impact on the landscape.

2.4 Secondly, no statutory objections were submitted during the determination process, including from Government Agencies responsible for the landscape such as Scottish Natural Heritage. Furthermore, no further objections were submitted by the Council's own landscape officers.

2.5 Thirdly, the proposed development would have generated a commuted sum of £19,185 which would have delivered much needed affordable housing in a bleak economic period.

2.6 Fourthly, support for this type of housing in the countryside is fully endorsed within the *Scottish Planning Policy (SPP)* paragraphs 131 (landscape) and 95 (rural development), which sets out National Planning Policy. In relation to landscape and the natural heritage, the SPP advocates a policy regime based on facilitating positive landscape change whilst maintaining and enhancing distinctive character. The SPP seeks to encourage the siting and design of development within the countryside which is informed by local landscape character. Of note is para 92 of the SPP (Appendix 11) which states that "*By taking a positive approach to new development, planning authorities can help to create the right condition for rural business and communities to flourish*". Para 95 continues "*All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards*". In relation to landscape and natural heritage, the SPP continues this policy direction of facilitating positive landscape change, stating in para 131 (Appendix 11). "*Whilst the protection of the landscape and natural heritage may sometimes impose constraints on development, with careful planning and design the potential for conflict can be minimised and the potential for enhancement maximised. However there will be occasions where the sensitivity of the site or the nature or scale of the proposed development is such that the development should not be permitted. Statutory natural heritage designations are important considerations where they are directly or indirectly affected by a development proposal. However, designation does not necessarily imply a prohibition on development*". The proposed development advances this policy approach and the Report of Handling notes that the site is "*extremely capable of absorbing the development proposed*" and that the proposed housing is *of a tasteful design* (Appendix 8).

2.7 Fifthly, there are a number of recent precedents for local development projects within the AGLV that have been granted planning consent. Of note are planning application 09/02019/FLL for the erection of a new house below the review site. Consent was granted in 2010 and the Council's analysis concluded that the site had a suitable landscape framework to accommodate the proposed development. This mirrors the Planning Officer's assessment of the site subject of this review. Furthermore application 11/00897/IPL at Over Kinfauns for two new built residential properties was approved on the basis that the proposal would have "*little **adverse** impact on either the landscape or the visual character of the AGLV*" (Appendix 10). The precedents above are relevant in that they relate to the AGLV and establish a track record within Perth and Kinross Council for approving planning applications within

the AGLV that have a landscape framework that can accommodate development and do not have an *adverse*, as opposed to *any*, impact.

2.8 **Reasons for Refusal 1 – Contrary to policies 12 and 32 of the Perth Area Local Plan 1995 (incorporating alteration No 1 Housing Land 2000) (PALP)**

2.9 *As the proposal will have a visible impact on the landscape character of an area designated as being of great landscape value (AGLV) the proposal is contrary to Policies 12 and 32 of the Perth Area Local Plan 1995 (incorporating alteration No 1 Housing Land 2000), both of which state that there will be presumption against built development within the AGLV Designation except for development necessary for operational need.*

2.10 Sections 25 and 37 (2) of the *Town and Country Planning (Scotland) Act* 1997 (as amended) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise.

2.11 In the context of this review, the Development Plan is the *Perth Area Local Plan 1995* (incorporating alteration 1 Housing Land 2000) (PALP). As the review site lies within the landward area of the PALP and within an area designated as being of great landscape value (AGLV) the application must be assessed against PALP Policies 1, 12 and 32. Policy 1 relates to all the developments within the landward area and seeks, amongst other things, that all new sites are compatible with the existing land uses and that all new sites have a suitable landscape framework which is capable of absorbing the development which is proposed.

2.12 Policy 12 relates specifically to developments within the AGLV and states that there will be presumption against new development within such areas unless there is a proven operational need.

2.13 Policy 32 refers to new housing in the countryside and lists a number of categories of development opportunities where new housing may be acceptable within the open countryside.

2.14 In terms of other material considerations, national planning guidance such as the SPP, other Policies approved by the Council post adoption of the PALP, most notably the revised *Housing in the Countryside Policy (2009)* and relevant planning decision precedents.

2.15 In assessing the policy context for the proposed development, the Planning Officer considered that the key tests relating to the acceptability of the planning application were based on two issues,

a) whether or not the site had a good existing landscape framework and the proposed residential use was compatible with the surroundings and

b) whether or not the proposed development is acceptable in land use terms bearing in mind the provisions of the Development Plan.

2.16 This formed part of the Report of Handling as contained in Appendix 8.

2.17 The Report of Handling highlights that in relation to Policy 1 of the PALP the Planning Officer had no particular issue with the compatibility of the proposal with the existing land uses. A note was made of concern by local residents in relation to existing private water supplies and the Council's Environmental Health Team commented on the proposals specifically and considered that appropriately worded conditions could mitigate any risk.

2.18 In terms of the existing landscape framework, the Planning Officer considered that the site was clearly defined on all sides and *"to have a good existing landscape framework which is entirely capable of absorbing the development of which is proposed"*.

2.19 The Report of Handling therefore considered that the planning application was entirely consistent with the aims of Policy 1 of the PALP.

2.20 In relation to the second issue, notably the acceptability of the land use (for residential) within a landward area of the PALP, the proposed development needs to be considered against Policy 32 of the PALP which refers to the *Housing in the Countryside Policy*. This has been amended through the *Housing in the Countryside Policy 2009* which is therefore also of relevance. Both versions offer some scope for the extension of building groups into definable sites providing that the extension will not detract from the character or the amenity of the existing group.

2.21 The Planning Officer acknowledges both within the pre-Application consultation, as contained in Appendix 6 and within the Report of Handling as contained in Appendix 8, that the proposed development sits within a defined building group and that the principle of development is established. The Report of Handling continues to note that the scale and design of the proposed development records with the detailed criteria of the Housing in the Countryside Policy. The Report of Handling goes so far as to state that the design is "*tasteful*", (Appendix 8).

2.22 However within the preamble of the *Housing in the Countryside Policy 2009* and within the text (albeit not Policy) of Policy 32 of the PALP it is stated that all proposals must comply with any specific designations, which in the case of this development is Policy 12 of the PALP. This relates to the AGLV and states "*there will be presumption against built development within the AGLV except for development where necessary for operational needs*". Sections 27 and 37 (2) of the *Town and Country Planning (Scotland) Act 1997* as amended require material considerations to be taken into account where they indicate the balance of a decision might be otherwise. This is relevant within the context of Policy 12 and the weight that should be attributed to the restricted policy provisions in relation to the AGLV. Of relevance is the issue of the SPP in 2010 and therefore the latest statement of

national policy. The SPP advocates a policy regime based on facilitating positive landscape change whilst maintaining and enhancing distinctive character. The main theme is one of taking a broader approach to landscape and natural heritage than just conserving designated or protected sites as detailed in para 2.7 above. This Policy focus is less restrictive in principle than Policy 12 of the PALP which was adopted in 1995 and the *Housing in the Countryside Policy of 2009*. It is directed towards the Government's aims of supporting and enhancing a vibrant and high quality rural environment and as such is a relevant material consideration for this review.

2.23 This policy emphasis is reflected in recent precedents within Perth and Kinross Council, which established that the planning service has taken the view in recent cases to assess proposals within the AGLV on their own individual merits, taking into account their site characteristics and the likely impact on the visual amenity of the area and on the landscape character.

2.24 Of particular relevance is the Report of Handling in relation to application 11/00897/IPL which states (Appendix 8, paragraph 28) that "*Kinfauns is a well established group of dwellings and that development within this building group would have less of an impact on the visual appearance of the area or the landscape character of a new dwelling in an isolated or prominent location. Although no details of the proposed house types (or which lines) have been submitted, it is my view that suitably designed buildings would have little adverse impact on the landscape character of the AGLV nor would development of this site result in a significant adverse visual impact. I fully appreciate that the Council have refused planning applications within the AGLV over the years and have been extremely successful in defending related appeals. However the majority of these have been on isolated sites with a lack of landscape framework. I therefore consider the proposal to be contrary to the AGLV Policy but consider the site's characteristics as a reason for ultimately recommending the approval, contrary to the development plan*".

2.25 This recent planning approval for a proposed development within the AGLV raises entirely similar issues presented by this application. Both sites are recognised by the Planning Officers as being within an established landscape framework, capable of accommodating development. Of note in relation to this review, is that the application is detailed and has therefore enabled a careful and detailed evaluation of the relationship between the proposed buildings and landscape through the submission of a landscape and visual assessment, in order to quantify the potential impact.

2.26 It is within this context that whilst contrary to Policy 12 of the PALP, material considerations in the form of national planning policy issues post adoption of the PALP and recent planning decisions establish material considerations which in the opinion of the applicant override the presumption against development within the AGLV as promoted through Policy 12 of the PALP.

2.27 This then raises the issue of landscape and visual impact.

2.28 To this effect, the applicant appointed a professional landscape architect, Ian White Associates to undertake an assessment of the landscape character of the area and visual analysis of the proposal to determine the potential impact of the proposed development on the AGLV. The study guided the design process and forms part of this planning submission and is contained in Appendix 5.

2.29 In summary the assessment reflects best practice contained within the Landscape Institute's *Guidelines for Landscape and Visual Assessment Impact Assessment* (2nd Edition), Scottish Natural Heritage's *Landscape Character Assessment for England and Wales* and Scottish Natural Heritage Tayside *Landscape Character Assessment.* The approach adopted comprised;

1. consideration of the character of the landscape and context for the site
2. establishing the nature of the views to the site from public viewpoint
3. outlining a landscape strategy to ensure integration of the proposed development within the surrounding landscape and opportunities for landscape enhancement.

2.30 The zone of visual influence and viewpoints has been established and assessed.

2.31 A series of pre and post development assessments are modelled to determine the impact on character and setting of the proposed development.

2.32 A number of site visits were undertaken in differing weather conditions and at various times of day in order to form a considered assessment of the site and proposed development.

2.33 The assessment establishes that the character of the landscape is determined by pronounced landform, extensive woodland and the flat land of the Carse. There are buildings and groups of buildings throughout this landscape but these are relatively unobtrusive because they are usually enclosed by tree planting.

2.34 Local views of the site are limited due to landform, roadside planting and existing residential properties.

2.35 A landscape strategy has been designed to ensure the character and integrity of the AGLV is protected and indeed enhanced through the provision of a strong and permanent landscape framework for the proposed development. This will be achieved by extending the southern edge of Deuchny Wood and establishing new blocks of woodland planting between the building plots and existing properties. The enclosed woodland blocks will consist of mixed species to reflect the character of the existing woodland and include oak, beech, ash, scots pine and larch, with associated edge species. This would be detailed through a planning condition and protected through a burden on the respective property titles.

2.36 These planting blocks would also protect the amenity and privacy of the adjoining properties to the south of the site, notably *The Neuk, Tayview* and *Windyedge*. These landscape blocks have the potential to enhance the landscape setting of the AGLV by extending woodland corridors down from Deuchny Wood to join the woodland below

the site so that from wider vantage points the AGLV is reinforced through new planting.

2.37 To avoid the buildings being viewed prominently, as is indeed the case with a number of properties in the locality, a considered material selection process will be adopted based on dark colour choices for windows, render and timber paint. This approach is designed to ensure the buildings fit into the landscape and protects the setting and character of the adjoining Kingswell farmhouse.

2.38 The assessment concludes that overall the site is well contained by existing strong landscape features which could absorb the proposed houses and that the development would not have an adverse impact on the character and integrity of the AGLV.

2.39 No evaluation of this landscape and visual assessment has been presented by the Council in order to counter the assessment of impact and proposed mitigation, including a detailed landscape strategy leading to the enhancement of the wider landscape, which is entirely consistent with the wider aims and objectives of the AGLV. As evidenced by this landscape and visual assessment, the proposed development is informed by landscape character and will facilitate a positive change. There is no evidence that the proposed development would have an adverse impact on the character and integrity of the AGLV for the site which as the planning officer acknowledges in his Report of Handling, has a "*good existing landscape framework which is entirely capable of absorbing the development which is proposed*" (Appendix 8).

2.40 The Planning Officer's contention that a determining consideration for new development within the AGLV is whether or not they will have any impact (adverse or otherwise i.e. not visible) or ones which would result in negligible impact on the current landscape is questionable in that it has no policy basis nor does it reflect recent planning decisions as described above. Reference to the Landscape Institutes *Guidelines for Landscape and Visual Assessment Impact Assessment* (second edition), Scottish Natural Heritage's *Landscape Character Assessment for England and Wales* and Scottish Natural Heritage's *Tayside Landscape Character Assessment* detail nationally accepted procedures for the assessment and determination of visual impact. As described above these focus consideration on the character of a landscape, the nature of use to the site from public view points and the determination of a landscape strategy designed to ensure integration of the proposed development within the surrounding landscape and opportunities for landscape enhancement. This reflects national policy, as promoted by the SPP which is directed towards supporting and enhancing a vibrant and high quality rural environment as opposed to a focus on visible or negligible visible impact.

2.41 It is within this context that we consider the reason for refusal number 1 as having no sound basis and that the proposed development subject of this review complies with the provisions of Sections 25 and 37 (2) of the *Town and Country Planning (Scotland) Act* 1997 as amended, by virtue of the location of the site, the proposed development,

the ability of the landscape framework to accommodate development, wider national policy support and the type of development and assessment process adopted and the landscape strategy embedded within the proposal. They establish that the determining issue is the capacity of the landscape to accommodate change within defined building groups. This submission demonstrates that the proposed development would not have an adverse impact on the character and integrity of the AGLV. Furthermore, the proposed planting would enhance the quality of AGLV, furthering the wider policy aims.

2.42 **Reasons for Refusal 2 - Contrary to the Housing in the Countryside Policy 2009**

2.43 *As a result of the proposal being contrary to a policy relating to a specific designation within the relevant Local Plan Policy 12 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000), the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) which seeks to ensure the Local Plan policies relating to specific designations are complied with.*

2.44 As the detailed policy assessment and landscape and visual assessment presented in the reasons for refusal 1 above have demonstrated, material considerations exist which outweigh the restrictive policy provisions contained within the *Housing in the Countryside Policy 2009* in relation to AGLV. As such it is considered that the reasons for refusal 2 are without basis.

2.45 **Reasons for Refusal 3 – Contrary to Policy NE5 Greenbelts of the PKC Proposed Local Development Plan 2012**

2.46 *The proposal is contrary to Policy NE5: Green Belt of the Perth and Kinross Council Proposed Local Development Plan 2012 as the site is located within an area identified as Green Belt. This policy states that the Housing in the Countryside Policy does not apply in the Green Belt.*

2.47 Perth and Kinross Council published the *Draft Proposed Local Development Plan* on 30th January 2012 with a 10-week period for Representations. The Plan has a draft status which will be tested through Local Plan Examination currently proposed (Development Plan Scheme January 2012) for summer 2013. Whilst a material consideration for the determination of a planning application, the weight that can be afforded to the Plan is minimal, as provided for in Circular *1/2009 Development Planning*. The basis for this position is that the Plan is a reflection of the Council's intent for future land use strategy but this has not yet been tested through an Examination process in which the content can be independently assessed and third party objections given due consideration. At the point of determining this planning application, the *Proposed Plan* had completed its consultation period and Representations were being collated. The Plan had not (nor indeed has it at the time of this review) been submitted to Scottish Ministers nor had the period of Proposed Modifications been undertaken. The Plan is therefore at an important albeit formative stage of the process and is not yet a definite land use strategy. The weight that can be

attached to it and the determination of this review is therefore considered to be minimal.

2.48 Discussions between the applicant's team and the Council's Development Plan Team have established that in assessing the weight that should be attached to the Plan in the determination of a planning application, a key consideration is whether there are any unresolved objections in relation to a specific policy. In the context of Policy NE5 Greenbelt and the accompanying *Housing in the Countryside Policy*, the applicant's team have engaged actively in the review of the Plan submitting Representations on both the Consultation Draft and Proposed Plan stages of the new *Local Development Plan*. The objections submitted remain outstanding and will be the subject of negotiation with the Council and possible appearance of the Local Plan Examination. It is therefore the case that given these unresolved objections, limited weight can be attached to the Proposed Plan in the determination of this review.

2.49 The Report of Handling for the review site makes no reference to the Proposed Plan or the reason for refusal number 3. No objection was raised by the Council's Development Plan Team in relation to Policy NE5 Greenbelt which further demonstrates the absence of any policy basis for this reason for refusal.

2.50 Not withstanding the above, had the Council determined the application by the target date of 11th November 2011 the Proposed Plan would not have been published and as such been a material consideration. As evidenced by the planning history (see Appendix 9), no information was outstanding to delay determination past the target date.

## 3.0 Conclusion

3.1 As evidenced in this planning statement, the applicant considers that the three reasons for refusal are without policy or technical basis and as such respectfully request that the Local Review Body grant planning permission for the development.

3.2 This position is based on the following facts:

- Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the determination of the planning application to be made in accordance with provisions of the development plan unless other material considerations indicate otherwise. Policies 12 and 32 of the Perth Area Local Plan 1995 have been superseded through the publication of the Scottish Planning Policy which advocates a policy regime based on facilitating positive landscape change, whilst maintaining and enhancing distinctive character. This main theme of taking a broad approach to landscape and natural heritage rather than just conserving designated or protected sites is further reflected by recent Perth and Kinross Council planning decisions within the locality of the review site, which have granted planning consent for residential development within the AGLV. It is within this context that whilst contrary to policies 12 and 13 of the Perth Area Local Plan, material considerations detailed in this statement, in the form of

national planning policy issues post adoption of the Perth Area Local Plan and recent planning decisions override in the opinion of the applicant the presumption against development within the AGLV.

- The Planning Officer has acknowledged that the site is entirely capable of absorbing the development proposed and that the proposed housing is of a tasteful design. This accords with the Council's *Housing in the Countryside* policy.

- The Planning Officers contention that a determining consideration for new development within the AGLV is whether or not they will have any impact (adverse or otherwise) on the current landscape is questionable, in that it has no policy basis and does not reflect recent planning decisions as described within this planning statement.

- No evidence has been presented by the Planning Officer during determination of the planning application to dispute the conclusions of the landscape and visual assessment accompanying the planning application. This assessment concludes that overall the site is well contained by existing strong landscape features which could absorb the proposed houses and the development would not have an adverse impact on the character and integrity of the AGLV. Furthermore it concludes that through the landscape strategy proposed the development will facilitate a positive landscape change. This would enhance the quality of the AGLV which is supported for the rural development and landscape and heritage policy provisions within the *Scottish Planning Policy*.

- The emerging Local Development Plan has a draft status and the weight that can be afforded to the plan is minimal, as provided for in circular 1/2009 *Development Planning*. At the point of determining this planning application, the Proposed Plan has completed its consultation period and representations were being collated. The applicant had submitted an objection to the proposed green belt extension and on the basis this objection remains outstanding it will become the subject of negotiation with the Council and possible appearance at the Local Plan examination. It is the case that given unresolved objections, limited weight can be attached to the Proposed Plan in the determination of this review. Notwithstanding the above, had the Council determined the application by the target date of 11th November 2011 as opposed to delaying by five months, the Proposed Plan would not have been published.

- The proposed development would have generated a commuted sum of £19,185 which would have delivered much needed affordable housing in a bleak economic period.

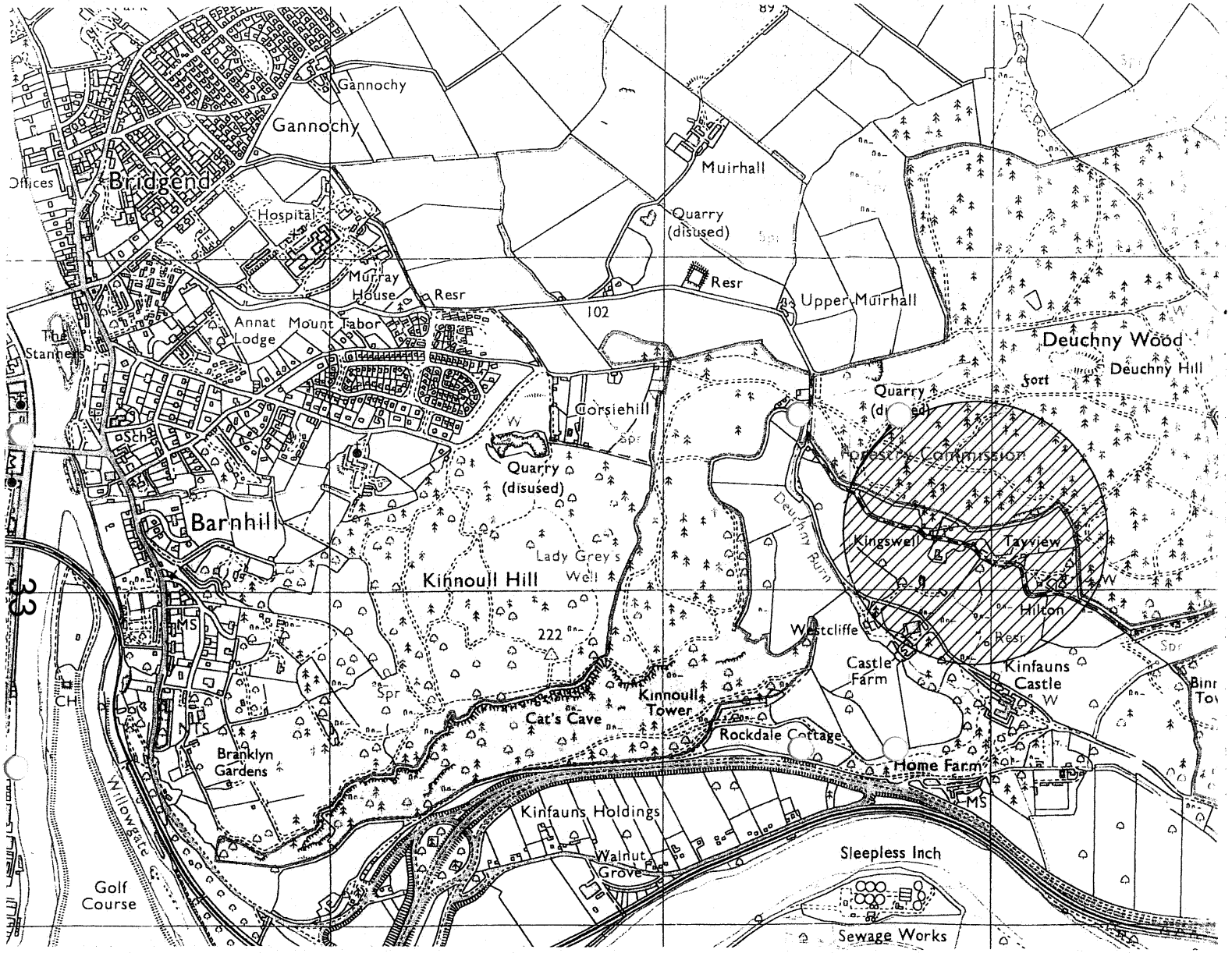
3.3 It is on this basis that the applicant considers the Council were unreasonable in refusing planning consent for application 11/01373/FLL and we respectfully request that the Local Review Body considers the applicant's grounds for review as presented

within this statement. To this end we respectfully request that the Local Review Body review the application, conduct a site visit and undertake a hearing in order to grant planning permission.

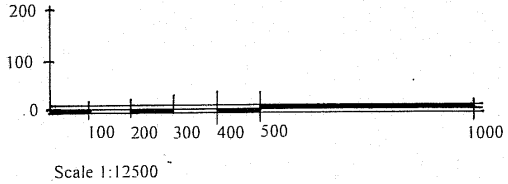
22nd June 2012
Ristol Ltd

# Appendices

| | |
|---|---|
| 1 | Site Location |
| 2 | Planning Application Form |
| 3 | Planning Application Supporting Statement |
| 4 | Planning Drawings |
| 5 | Landscape and Visual Assessment, undertaken by Ian White Associates |
| 6 | Copy of Planning Officers Pre-Application Consultation Response dated 8th May 2011 |
| 7 | Perth and Kinross Council Decision Notice dated 11th April 2012 |
| 8 | Perth and Kinross Council Officer's Report of Handling |
| 9 | Extract of Correspondence with Perth and Kinross Council throughout Determination of the Application |
| 10 | Extract from Report of Handling for Planning Application 11/00897/IPL |
| 11 | Scottish Planning Policy dated February 2010 |




LOCATION PLAN

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**James Denholm Partnership**
Architects
11 Dunira Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 670899, Fax: (01764) 670995

| | |
|---|---|
| Client | Private |
| Project | Land Subject to Representations, Kingswell, Kinfauns, Perth. |
| Drawing | Location Plan |

| | | |
|---|---|---|
| Scale 1:12500 | | Drawn KK |
| Date Aug 11 | | Rev. Date |
| Job No. 3972 | Drwg. No. P05 | Rev. |

SITE PLAN 1:1000

Scale : 1:1000

Rev A. Boundaries to Plots 3 + 4 Amended.

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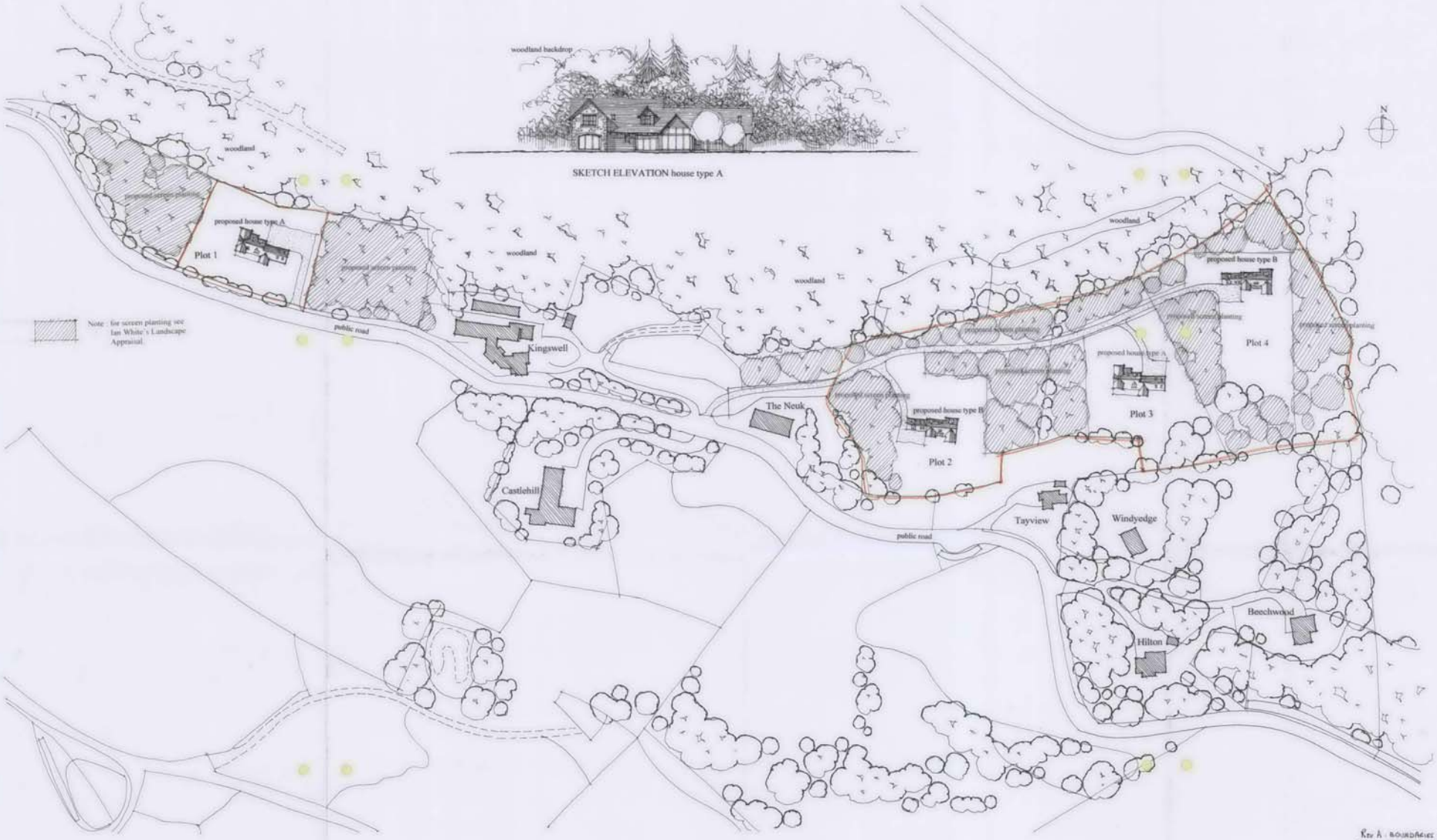
James Denholm Partnership
Architects
11 Dunira Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 670666, Fax: (01764) 670666

Client: Private

Project: Land Subject to Representations, Kingswell, Kinfauns, Perth.

Drawing: Existing Site Plan

| | | | |
|---|---|---|---|
| Scale: 1:1000 | | Drawn: KK | |
| Date: Feb 11 | | Rev. Date: 27/07/11 | |
| Job No.: 3972 | Dwg. No.: P04 | Rev.: A | |




SITE PLAN 1:1000

SKETCH ELEVATION house type B

Rev A : BOUNDARIES TO PLOTS 3 AND 4 AMENDED

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James Denholm Partnership
Architects
11 Dunsie Street, Comrie, Perthshire, PH6 2LJ
Tel. (01764) 670896, Fax: (01764) 670995

| | |
|---|---|
| Client | Private |
| Project | Land Subject to Representations, Kingswell, Kinfauns, Perth. |
| Drawing | Proposed Site Plan |

| | | | |
|---|---|---|---|
| Scale | 1:000 | Drawn | KK |
| Date | Jan 11 | Rev. Date | 27/07/11 |
| Job No. | 3972 | Drwg. No. P01 | Rev A |

Print Form

# APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

**Please refer to the accompanying Guidance Notes when completing this application**
**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA https://eplanning.scotland.gov.uk**

## 1. Applicant's Details

| | |
|---|---|
| Title | MR N LOWE |
| Forename | NICKY |
| Surname | LOWE |
| Company Name | – |
| Building No./Name | KINROSWELLS |
| Address Line 1 | MUIRHALL ROAD |
| Address Line 2 | KINFAUNS |
| Town/City | PERTH |
| Postcode | PH2 7LL |
| Telephone | – |
| Mobile | – |
| Fax | – |
| Email | – |

## 2. Agent's Details (if any)

| | |
|---|---|
| Ref No. | |
| Forename | MARK |
| Surname | RICHARDSON |
| Company Name | ASTOL LTD |
| Building No./Name | TOUCH ESTATE |
| Address Line 1 | CAMBUSBARRON |
| Address Line 2 | STIRLING |
| Town/City | |
| Postcode | FK 8 3AQ |
| Telephone | 01786 465 782 |
| Mobile | 07825 772 090 |
| Fax | 01786 471 738 |
| Email | MARK.RICHARDSON@STUDIOASTOL.COM |

## 3. Postal Address or Location of Proposed Development (*please include postcode*)

LAND AT KINROSWELLS, MUIRHALL ROAD, KINFAUNS, PERTH PH2 7LL.

NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.

## 4. Type of Application

What is the application for? Please select one of the following:

| | |
|---|---|
| Planning Permission | ☑ |
| Planning Permission in Principle | ☐ |
| Further Application* | ☐ |
| Application for Approval of Matters Specified in Conditions* | ☐ |
| Application for Mineral Works** | ☐ |

NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.

*Please provide a reference number of the previous application and date when permission was granted:

Reference No: _____ Date: _____

**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.

## 5. Description of the Proposal

Please describe the proposal including any change of use:

THREE NEW RESIDENTIAL MOBILE TILE WITHIN BUILDING GROUP

Is this a temporary permission? Yes ☐ No ☑

If yes, please state how long permission is required for and why:

Have the works already been started or completed? Yes ☐ No ☑

If yes, please state date of completion, or if not completed, the start date:

Date started: Date completed:

If yes, please explain why work has already taken place in advance of making this application

## 6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal? Yes ☑ No ☐

If yes, please provide details about the advice below:

In what format was the advice given? Meeting ☑ Telephone call ☑ Letter ☐ Email ☑

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☑

Please provide a description of the advice you were given and who you received the advice from:

Name: MR A BAXTER Date: 8/05/11 Ref No.:

## 7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha): 1·9 Ha. Square Metre (sq.m.) 19130 m²

## 8. Existing Use

Please describe the current or most recent use:

FIELD (USED FOR GRAZING)

## 9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes ☑ No ☐

*If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.*

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes ☐ No ☑

*If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.*

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? 0

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces) 6

*Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)*

## 10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements? Yes ☑ No ☐

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network ☐
No, proposing to make private drainage arrangements ☑
Not applicable – only arrangement for water supply required ☐

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway ☑
Discharge to watercourse(s) (including partial soakaway) ☐
Discharge to coastal waters ☐

*Please show more details on your plans and supporting information*

What private arrangements are you proposing?
Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed) ☐
Other private drainage arrangement (such as a chemical toilets or composting toilets) ☐

*Please show more details on your plans and supporting information.*

Do your proposals make provision for sustainable drainage of surface water? Yes ☑ No ☐

*Note:- Please include details of SUDS arrangements on your plans*

Are you proposing to connect to the public water supply network? Yes ☑ No ☐

*If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)*

## 11. Assessment of Flood Risk

Is the site within an area of known risk of flooding? Yes ☐ No ☑

*If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.*

Do you think your proposal may increase the flood risk elsewhere? Yes ☐ No ☐ Don't Know ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

## 12. Trees

Are there any trees on or adjacent to the application site? Yes ☑ No ☐

*If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.*

## 13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling) Yes ☑ No ☐

*If yes, please provide details and illustrate on plans.*
*If no, please provide details as to why no provision for refuse/recycling storage is being made:*

## 14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? Yes ☑ No ☐

If yes how many units do you propose in total? 3.

*Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.*

## 15. For all types of non housing development – new floorspace proposed

Does you proposal alter or create non-residential floorspace? Yes ☐ No ☐
*If yes, please provide details below:*

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

*Please provide details of internal floorspace*(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

## 16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☑ Don't Know ☐

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

## 17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes ☐ No ☑

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes ☐ No ☑

If you have answered yes please provide details:

## DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed ☑

I, the applicant /agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes ☑ No ☐ N/A ☐

Signature: [redacted] Name: C M McHARDSON Date: 5·08·2011

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

Print Form

# LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

**CERTIFICATE A, B, C OR CERTIFICATE D**
**MUST BE COMPLETED BY ALL APPLICANTS**

## CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

**I hereby certify that -**

(1) No person other than myself, N. Lowe was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application. ☑

(2) None of the land to which the application relates constitutes or forms part of agricultural land. ☐

Signed: [redacted]

On behalf of: N. Lowe

Date: 5-08-11

## CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

**I hereby certify that -**

(1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

| Name | Address | Date of Service of Notice |
|---|---|---|
| | | |

(2) None of the land to which the application relates constitutes or forms part of agricultural land ☐

**or**

(3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

RISTOL

**Kingswell, Kinfauns, Perthshire**

**Supporting statement**

Planning application for 3 residential properties

August 2011

**Contents**


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|---|---|
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| 3.0 The proposal | 3 |
| 4.0 Planning context | 4 |
| 5.0 Conclusion | 7 |

## 1.0 Introduction

Kingswell comprises a building group of 7 residential properties to the north of Kinfauns, Perthshire.

The application area totals ....acres.

The site is on the southern edge of Duechny wood within flat grass land.

This detailed planning application is for 3 new houses sited within the building group and follows a pre consultation meeting on the 23rd February 2011 and subsequent layout and design modifications prepared by the James Denholm partnership.

This planning application comprises:

- Statutory application form
- Land ownership certificate A
- Planning application and advertisement fee
- Supporting planning statement
- Drawings –James Denholm Partnership
    - Application boundary plan
    - Existing site plan
    - Proposed site plan
    - House type A – layout and elevations
    - House type B – layout and elevations
- Landscape appraisal – Ian White Associates – June 2011
- Planning pre consultation report – May 2011

## 2.0 The site

The application site is grass land that wraps around and within the building group of Kingswell. The land is not part of an agricultural tenancy and is used for grazing. A mature band of trees borders the northern boundary of the site providing visual containment to the site. The eastern boundary is defined through the topography of the site and an existing property *Beechwood*. The western boundary is defined by a mature hedge.

No buildings within the group form part of a Conservation area.

Kingswell farmhouse which adjoins the site is a Listed building.

The site lies within a designated Area of Great Landscape Value (AGLV)

## 3.0 The proposal

This detailed planning application is for 3 detached residential properties, served by an existing access. Two house types are proposed.

The design of the properties reflects the policy framework contained in Perth and Kinross Council's *Housing in the Countryside Policy 2009.* Careful consideration has been given to the local vernacular

and landscape setting and character, with ridge heights set at 1 ½ story, the layout adopting a linear form and the houses orientated on a north-south access. Materials treatment is a mix of stone, painted render and timber, with slate roofs, whilst the siting of the properties has been designed to ensure the buildings fit within the building group and protect the amenity of the adjoining properties.

The design approach has been informed by the parameters of the Listing of the adjoining Kingswell farmhouse in order to ensure the character and setting of the farmhouse is maintained. An evaluation of the proposal in relation to the farmhouse has been undertaken by renowned conservation architects Simpson and Brown which establishes that the proposed development subject of this application will not impact on the character and setting of Kingswell farmhouse.

An integral element of the design process has been the use of extensive tree planting between each proposed residential plot to reinforce the integration of the properties into the wider landscape to ensure landscape fit and enhance the AGLV, as detailed in section 4 below.

The internal site road will be taramaced with passing bays with the access built to adoptable standards before resorting to a private road. No street lights are proposed.

The proposed properties will be served by mains water, electricity and BT. Heating, foul and surface water will be private. Individual septic tanks are proposed for each of the properties and surface water will be dealt with through herringbone drain. There is sufficient area to provide for this within the application site and the ground conditions have suitable porosity for drainage.

**4.0 The planning context**

The planning context for the application is established in the adopted Perth & Kinross Council's *Perth Area Local Plan 1995,* as supplemented by the *Housing in the Countryside policy 2009.*

Policy 32 of the *Perth Area Local Plan 1995* refers to housing in the countryside criteria for sites within landward areas. Since adoption of the Plan, the Council published new guidance in 2009 relating to housing in the countryside which now forms the basis for determining this planning application.

This planning application raises two key planning issues:

1. Compliance with the principle and design detailed for housing in the countryside
2. Impact on the Area of Great Landscape Value (AGLV).

The Council *Housing in the Countryside policy 2009* is the most recent expression of Council policy towards new housing and is applicable across the entire landward area and takes forward the policy direction contained within Policy 32 of the *Perth Area Local Plan 1995*. It recognises that most new housing will continue to be in or adjacent to existing settlements and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories. This policy framework has informed and guided the project assessment and design process.

The relevant category for this proposal is category 1, which offers support for new dwellings that *extend existing building group into definable sites formed by existing topography and or well established landscape features which will provide a suitable setting.*

The policy also states that all proposals must respect the character, layout and building pattern of the group and demonstrate that a high standard of residential amenity can be achieved for the existing and proposed house(s).

Kinsgwell is a building group by virtue of the 7 existing residential properties within a defined setting. The land subject of the planning application forms part of the building group and the proposed residential properties will be read as forming an integral part of the group and not as an extension. The policy criteria on siting, design and material selection have informed the detail of the application proposal as explained in section 3 above and shown in the accompanying planning drawings.

A pre consultation meeting with Council officer on the 23rd February and subsequent correspondence established that the site does form a building group and therefore the principle of development is acceptable. Furthermore, the Council have confirmed through the pre application consultation exercise that the density, layout and material treatment of the proposed development comply with the criteria contained within the *Housing in the Countryside policy*.

The proposed development would trigger contributions for education contribution, which would consist of a financial contribution, as calculated in accordance with the Council's *Planning Guidance Note* on Primary Education and New Housing developments.

In relation to Kingswell farmhouse which is Listed and adjoins the application site, policy 25 of the Perth & Kinross Council's *Perth Area Local Plan 1995,* notes that the setting of Listed buildings should be safeguarded. The design approach has been informed by the parameters of the Listing of the adjoining Kingswell farmhouse in order to ensure the character and setting of the farmhouse is maintained. An evaluation of the proposal in relation to the farmhouse has been undertaken by renowned conservation architects Simpson and Brown which establishes that the proposed development subject of this application will not impact on the character and setting of Kingswell farmhouse.

The relationship between the development proposal and the AGLV has been given careful planning and design consideration.

Policies 12 and 32 of the *Perth Area Local Plan* and the preamble within the *Housing in the Countryside policy 2009* list the criteria against which development within AGLV's should be assessed. There is a presumption against new houses in the AGLV except on the basis of operational need.

In terms of assessing the policy context it is important to note that the *Perth Area Local Plan* was adopted in 1995. Policy has changed since its adoption and recent planning decisions have established precedents that require consideration when determining the policy framework for development within AGLV's.

August 2011

Of importance is the *Scottish Planning Policy (SPP) 2010* which sets national planning policy. In relation to landscape and natural heritage, the SPP advocates a policy regime based on facilitating positive landscape change whilst maintaining and enhancing distinctive character. The main theme is one of taking a broader approach to landscape and natural heritage than just conserving designated or protected sites. The *SPP* seeks to encourage the siting and design of development within the countryside that is informed by local landscape character. This policy focus is less restrictive in principle than the 1995 *Perth Area Local Plan* and the *Housing in the Countryside* policy and directed towards the Government's aims of supporting and enhancing a vibrant and high quality rural environment. This will no doubt be addressed through the new Local Development Plan, yet in the interim the *SPP* is a material consideration in the determination of this planning application.

Recent planning consents within the locality have established that planning decisions for new housing within AGLV's are focused on assessing landscape impact and the potential for enhancement as opposed to refusal in principle. Of note is planning application 09/02019/FLL for the erection of a new house below the site at Westcliffe, Kinfauns. This site fell with the AGLV (and Historic Garden and Designed Landscape – which this application does not). Consent was granted in 2010. In relation to the AGLV, the Council's analysis concluded the site had a suitable landscape framework to accommodate the proposed development and therefore the application was in accordance with policy. The approach demonstrates that policy application is on protecting the AGLV from inappropriate development and where possible enhancing the landscape character of the AGLV.

Pre consultation meetings with the Council have set the parameters for determining the application. This is to ensure that the proposed development would have no adverse impact on the integrity of the AGLV, in order to demonstrate that the objectives of landscape protection and enhancement underpinning policy 12 of the *Perth Area Local Plan* and the *Housing in the Countryside Policy* are complied with and advanced.

To this effect, the applicant appointed a professional landscape architect, Ian White Associates to undertake an assessment of the landscape character of the area and visual analysis of the proposal to determine the potential impact of the proposed development on the AGLV. The study guided the design process and forms part of this planning submission.

In summary the assessment reflects best practice contained within the Landscape Institutes *Guidelines for Landscape and Visual Assessment Impact assessment* (2nd Edition), Scottish Natural Heritage's *Landscape Character Assessment for England and Wales* and Scottish Natural Heritage *Tayside Landscape Character Assessment*. The approach adopted comprised;

1. consideration of the character of the landscape and context for the site
2. establishing the nature of the views to the site from public viewpoint
3. outlining a landscape strategy to ensure integration of the proposed development within the surrounding landscape and opportunities for landscape enhancement.

The zone of visual influence and viewpoints has been established and assessed.

A series of pre and post development assessments are modelled to determine the impact on character and setting of the proposed development.

A number of site visits were undertaken in differing weather conditions and at various times of day in order to form a considered assessment of the site and proposed development.

The assessment establishes that the character of the landscape is determined by pronounced landform, extensive woodland and the flat land of the carse. There are buildings and groups of buildings throughout this landscape but these are relatively unobtrusive because they are usually enclosed by tree planting .

Local views of the site are limited due to landform, roadside planting and existing residential properties.

A landscape strategy has been designed to ensure the character and integrity of the AGLV is protected and indeed enhanced through the provision of a strong and permanent landscape framework for the proposed development. This will be achieved by extending the southern edge of Deuchny Wood and establishing new blocks of woodland planting between the building plots and existing properties. The enclosed woodland blocks will consist of mixed species to reflect the character of the existing woodland and include oak, beech, ash, scots pine and larch, with associated edge species. This would be detailed through a planning condition and protected through a burden on the respective property titles.

These planting blocks would also protect the amenity and privacy of the adjoining properties to the south of the site, notably *The Neuk, Tayview* and *Windyedge*. These landscape blocks have the potential to enhance the landscape setting of the AGLV by extending woodland corridors down from Deuchny Wood to join the woodland below the site so that from wider vantage points the AGLV is reinforced through new planting.

To avoid the buildings being viewed prominently, as is indeed the case with a number of properties in the locality, a considered material selection process will be adopted based on dark colour choices for windows, render and timber paint. This approach is designed to ensure the buildings fit into the landscape and protects the setting and character of the adjoining Kingswell farmhouse.

The assessment concludes that overall the site is well contained by existing strong landscape features which could absorb the proposed houses and that the development would not have an adverse impact on the character and integrity of the AGLV.

**5.0 Conclusion**

The policy context for this planning application is found in the *Perth Area Local Plan 1995* and the *Housing in the Countryside policy 2009*.

The application raises two key planning issues – development within the AGLV and compliance with the detailed guidance on siting and design within the countryside.

The policy analysis and pre application consultation exercise has established that the *Perth Area Local Plan* of 1995 and the *Housing in the Countryside Policy* of 2009 pre date latest government

guidance on development within designated landscape. The *SPP* takes a broader approach to landscape heritage than previous policy and advocates a new policy direction based on facilitating development within the countryside to support the rural economy on the basis that the proposals are **informed by landscape character and facilitate positive change**. Recent planning decisions within the AGLV for small scale residential development confirm that this policy approach is being adopted in planning decisions and reflects pre application advice.

The landscape assessment undertaken by Ian White Associates has established that overall the site is well contained by existing strong landscape features that could absorb the proposed houses and that the proposed development would not have an adverse impact on the character and integrity of the AGLV. Furthermore, the proposed planting would enhance the quality of the AGLV.

In relation to compliance with the detailed criteria within the *Housing in the Countryside policy,* the approach adopted to siting, layout and material selection of the proposed 3 residential units has been informed by policy as acknowledged through the pre application consultation process. An evaluation of the proposal in relation to the farmhouse has been undertaken by renowned conservation architects Simpson and Brown which establishes that the proposed development subject of this application will not impact on the character and setting of Kingswell farmhouse.

In terms of wider policy issues, the application will deliver a planning contribution to new education facilities at Kinoull primary School of £19,185 which is a significant sum in the current economic climate.

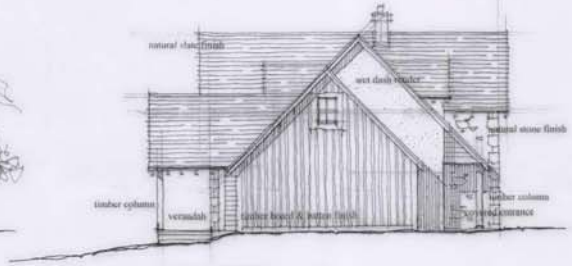
In conclusion this application complies with national and local planning policy through the assessment and design approach adopted, which has demonstrated that the application site can accommodate a development of 3 residential units that reflects the character of the area and enhances the wider landscape setting.

August 2011

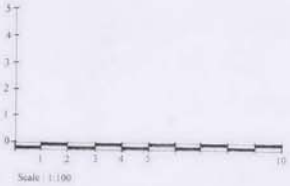
SOUTH ELEVATION

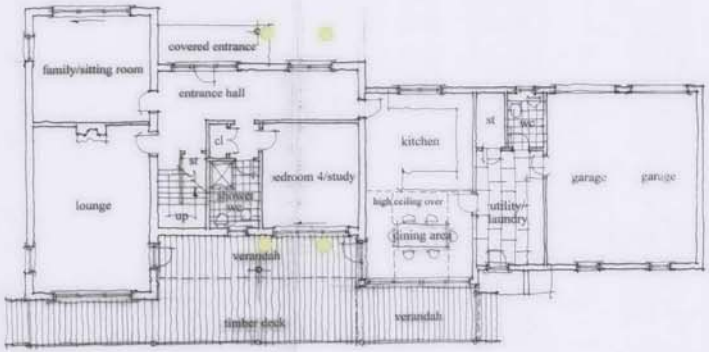
WEST ELEVATION

NORTH ELEVATION

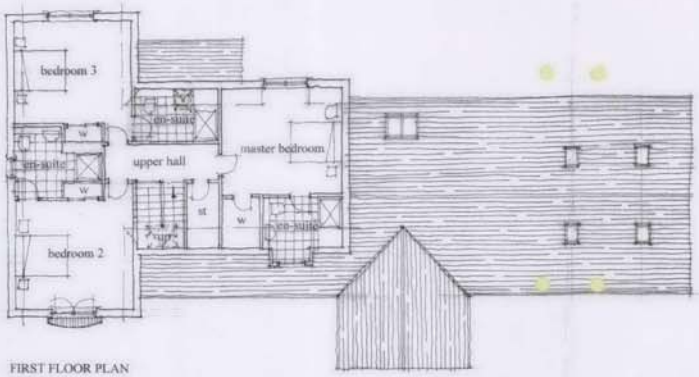



EAST ELEVATION




GROUND FLOOR PLAN
138m2 + 39m2 garage




FIRST FLOOR PLAN
94m2

Rev A – house orientations added

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James Denholm Partnership
Architects
11 Dunira Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 679899. Fax: (01764) 670566

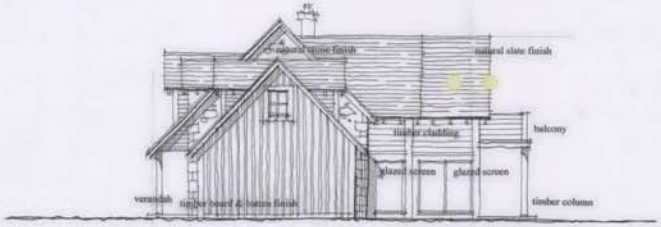
Client: Private

Project: Land Subject to Representations, Kingswell, Kinfauns, Perth.

Drawing: Proposed Plans & Elevations House Type A (Plots 1 & 3)

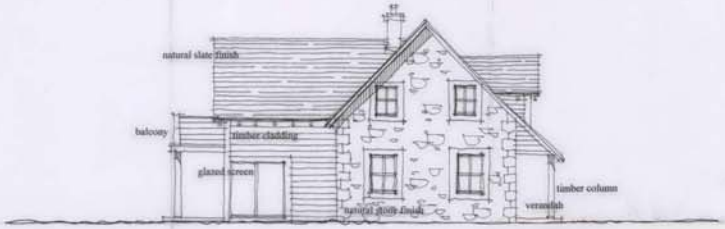
| | |
|---|---|
| Scale: 1:100 | Drawn: KK |
| Date: Jan 11 | Rev. Date: |
| Job No.: 3972 | Drwg. No.: P02 / Rev.: A |

SOUTH ELEVATION

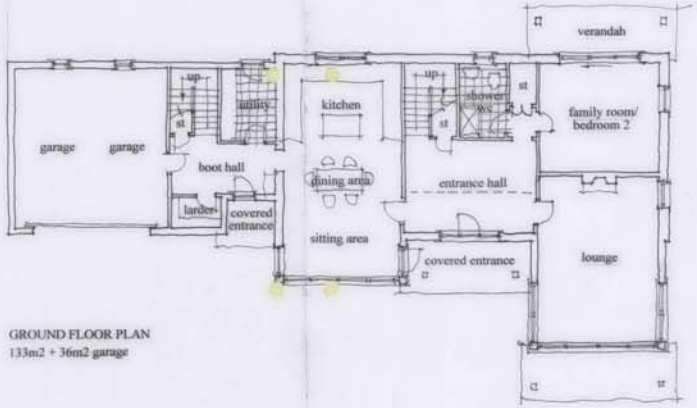



WEST ELEVATION

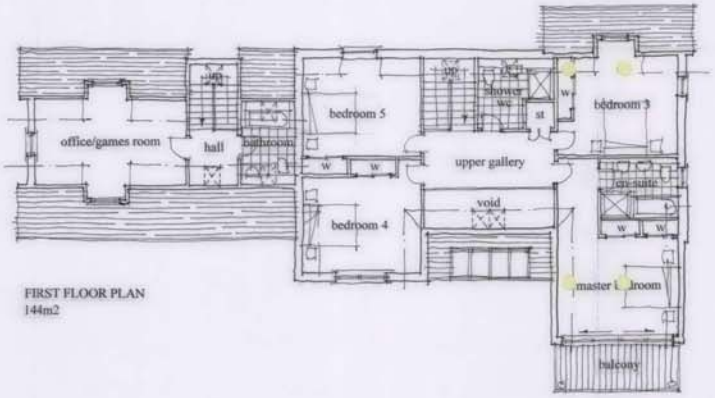
NORTH ELEVATION




EAST ELEVATION




GROUND FLOOR PLAN
133m2 + 36m2 garage




FIRST FLOOR PLAN
144m2

Rev A – house orientations added

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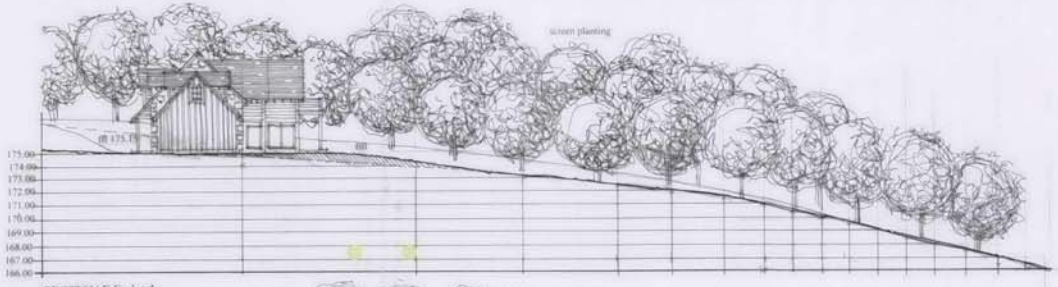
James Denholm Partnership
Architects
11 Dunira Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 670999. Fax: (01764) 670998

Client: Private

Project: Land Subject to Representations, Kingswell, Kinfauns, Perth.

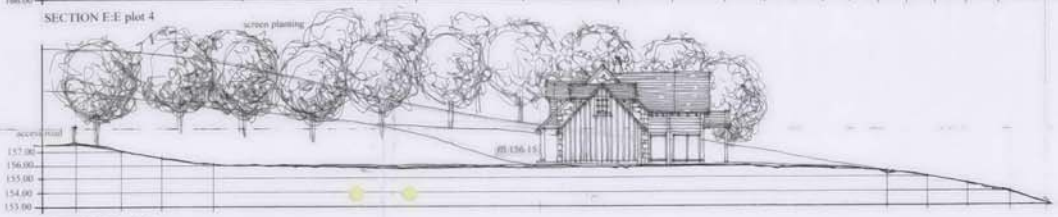
Drawing: Proposed Plans & Elevations House Type B (Plots 2 & 4)

| | | | |
|---|---|---|---|
| Scale | 1:100 | Drawn | KK |
| Date | Jan 11 | Rev. Date | |
| Job No. 3972 | Dwg. No. P03 | Rev. A | |



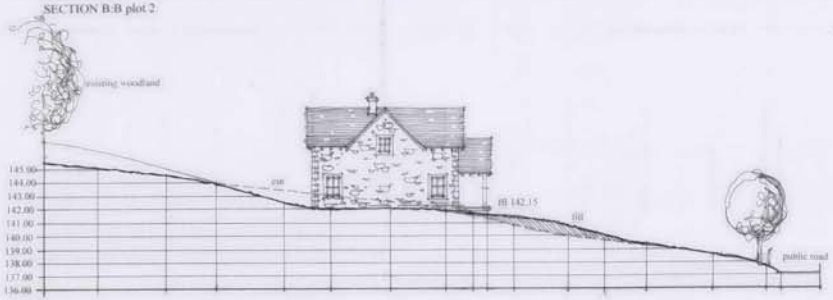

SECTION E:E plot 4

SECTION D:D plot 3

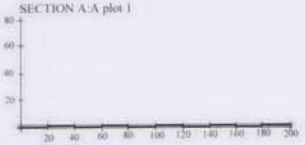



SECTION B:B plot 2

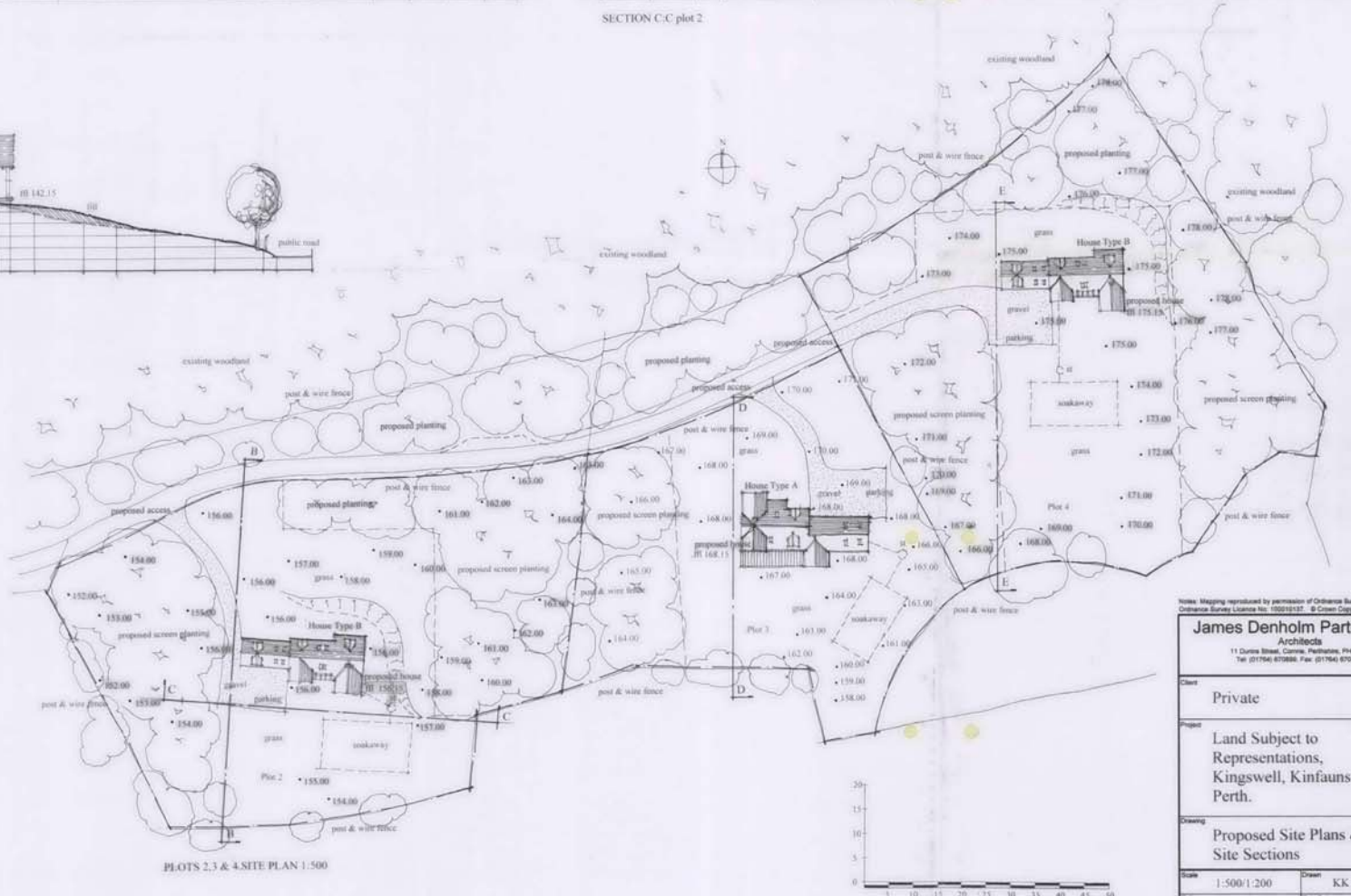
SECTION C:C plot 2




SECTION A:A plot 1



PLOT 1 SITE PLAN 1:500




PLOTS 2,3 & 4.SITE PLAN 1:500

Scale 1:500

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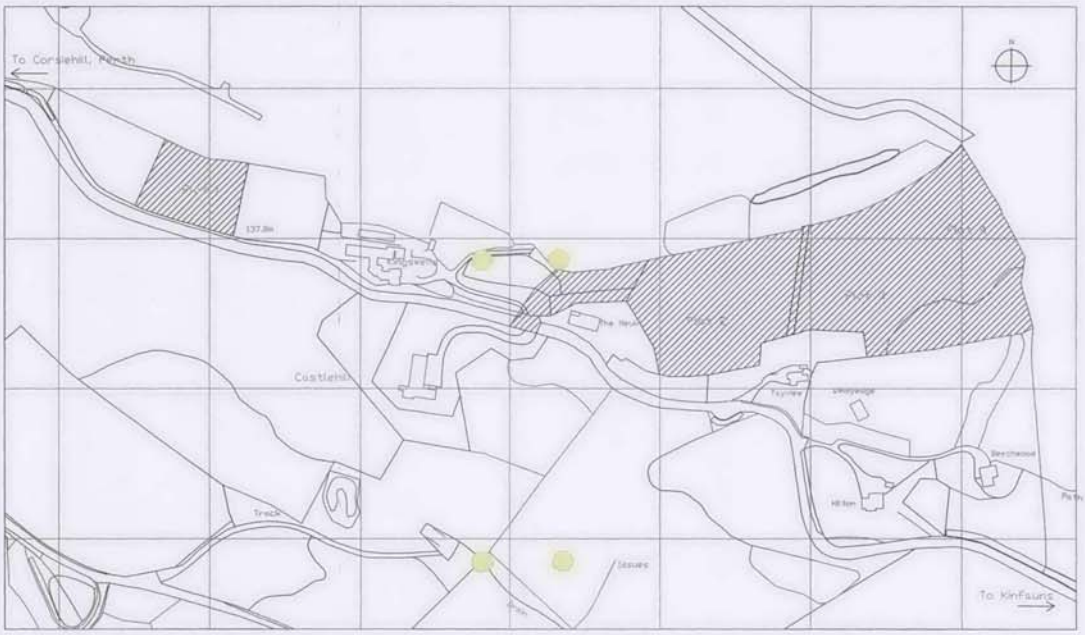
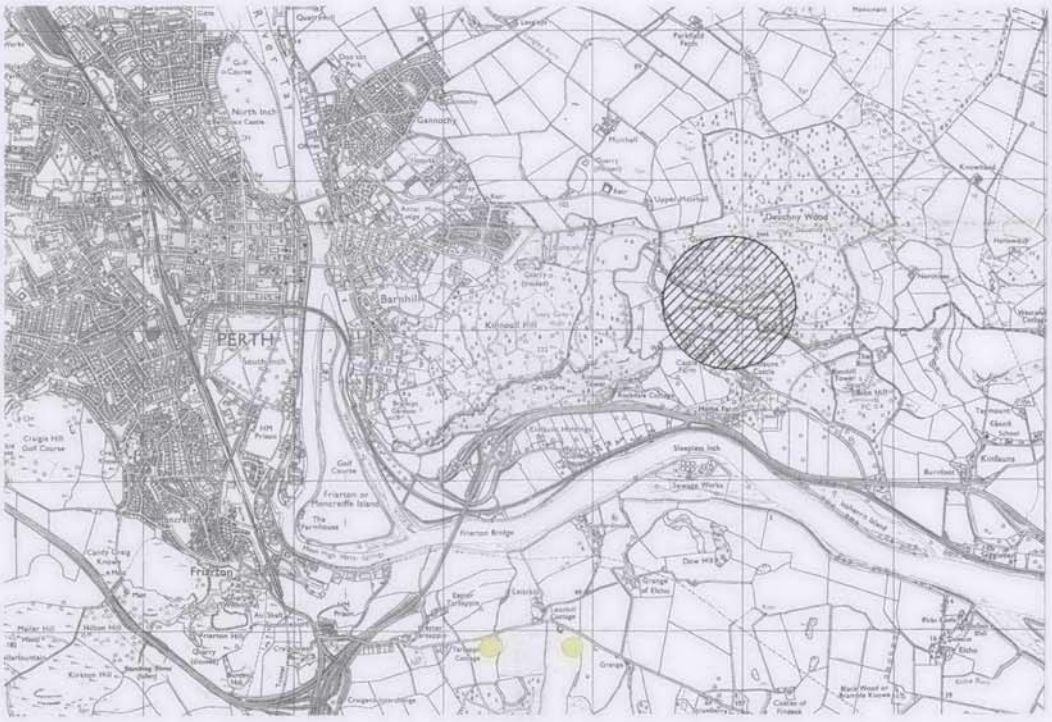
**James Denholm Partnership**
Architects
11 Dunins Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 670886. Fax: (01764) 670669

| | |
|---|---|
| Client | Private |
| Project | Land Subject to Representations, Kingswell, Kinfauns, Perth. |
| Drawing | Proposed Site Plans & Site Sections |
| Scale: 1:500/1:200 | Drawn: KK |
| Date: Aug 11 | Rev. Date |
| Job No. 3972 | Dwg. No. P06 / Rev. |




LOCATION PLAN 1:2500




LOCATION PLAN

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James Denholm Partnership
Architects
11 Dunira Street, Comrie, Perthshire, PH6 2LJ
Tel: (01764) 670899, Fax: (01764) 670995

| | |
|---|---|
| Client | Private |
| Project | Land Subject to Representations, Kingswell, Kinfauns, Perth. |
| Drawing | Location Plan |
| Scale | 1:2500 |
| Drawn | KK |
| Date | Aug 11 |
| Rev. Date | |
| Job No. | 3972 |
| Drwg. No. | P05 |
| Rev. | |

**IAN WHITE** FLI **Landscape Consultant**
3a Forrest Road Stirling FK8 1UH tel 07836652272

# Introduction

I am Ian White, Fellow of the Landscape Institute. In 1971 I founded Ian White Associates Landscape Architects and Planners, Stirling . I am now consultant to the practice. I act, or have acted, as landscape consultant to the National Trust for Scotland, the National Galleries of Scotland, the National Museums of Scotland, Historic Scotland, the Universities of St Andrews, Edinburgh, Glasgow and Dundee, New Edinburgh Ltd, Waterfront Edinburgh, Parc Craigmillar, Scottish Enterprise and a number of local authorities throughout Scotland.

In June 2011 I was instructed by Ristol Ltd to carry out a landscape and visual appraisal of a proposed development of four houses at Kingswell, Kinfauns which is within an Area of Great Landscape Value (AGLV).

A preliminary consultation with Perth and Kinross Council ( Andy Baxter) by Ristol Ltd identifed the need to demonstrate that the proposed development would not have an adverse impact on the character and integrity of the AGLV.

Accordingly my approach has been to:

**1** Consider the character of the existing landscape and context of the site.

**2** Establish the nature of views to the site from public viewpoints.

**3** Outline a landscape strategy which will integrate the proposed development with the surrounding landscape.

I have visited the site and surroundings on three occasions during May/ June under varying weather conditions and at different times of day. The appearance of the landscape and the proposed development will vary according to season, weather conditions and visibility.

I have also taken into account :

*Tayside Landscape Character Assessment* SNH 1999
*Guidelines for Landscape and Visual Impact Assessment* 2nd edition LI & IEMA
*Landscape Character Assessment Guidance for England and Scotland* CA & SNH.

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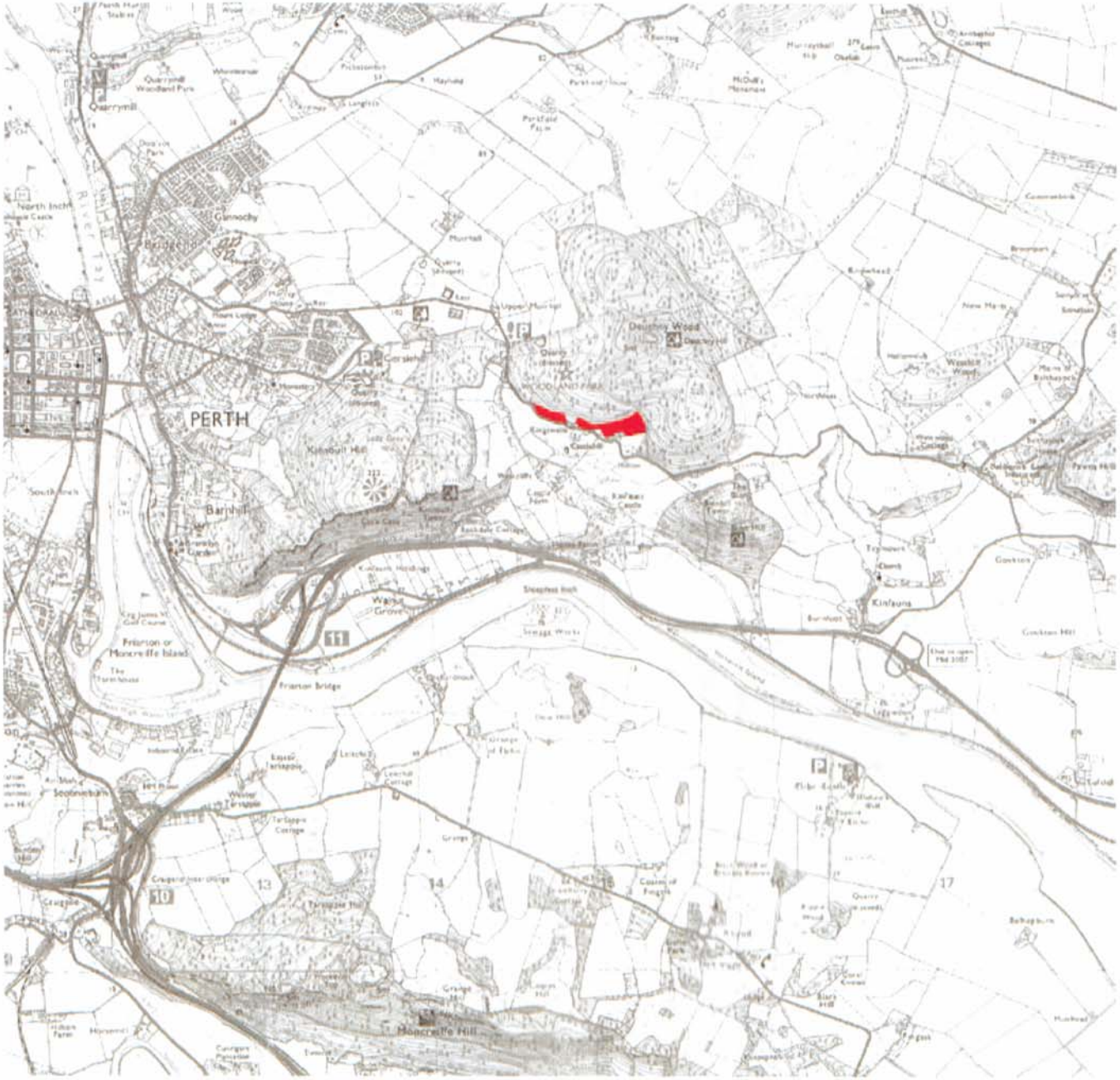
PERTH
Kinfauns
Friarton Bridge
Friarton or Moncreiffe Island
Moncreiffe Hill
Barnhill
Scoonie Burn
Gannochy
Kinnoull Hill
Deuchny Wood
Weasler Wood
Waterloo Grove
Sewage Works
Gowkton
Gowkton Hill
Perth Hill
Bellaghouse
Muirhead
Kingswell
Kinfauns Castle
Kinfauns Holdings
Bonhard
Bonhard Cottages
Tayside Golf Course
Grange
Grange Hill
Grange of Fingask
Fingask Park
Fingask Hill
Kiln Wood
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Kiln Farm Farmhouse

# Landscape Character

## Context

The site of the proposed development is located on a south-facing slope within an Area of Great Landscape Value(AGLV) which forms an integral part of the setting of Perth.

The wooded slopes of Kinnoull Hill, Deuchny Hill and Binn Hill form a strong visual containment which falls southwards towards the designed landscape of Kinfauns Castle and the River Tay.

The character of the landscape is determined by pronounced landform, extensive woodland (conifer plantations on the upper slopes and deciduous on the lower) , by flat carse land and by the river. There are buildings and groups of buildings throughout this landscape but these are relatively unobtrusive because they are usually enclosed by tree planting. The major structure in the landscape is the Friarton Bridge which carries the A90 across the river Tay.

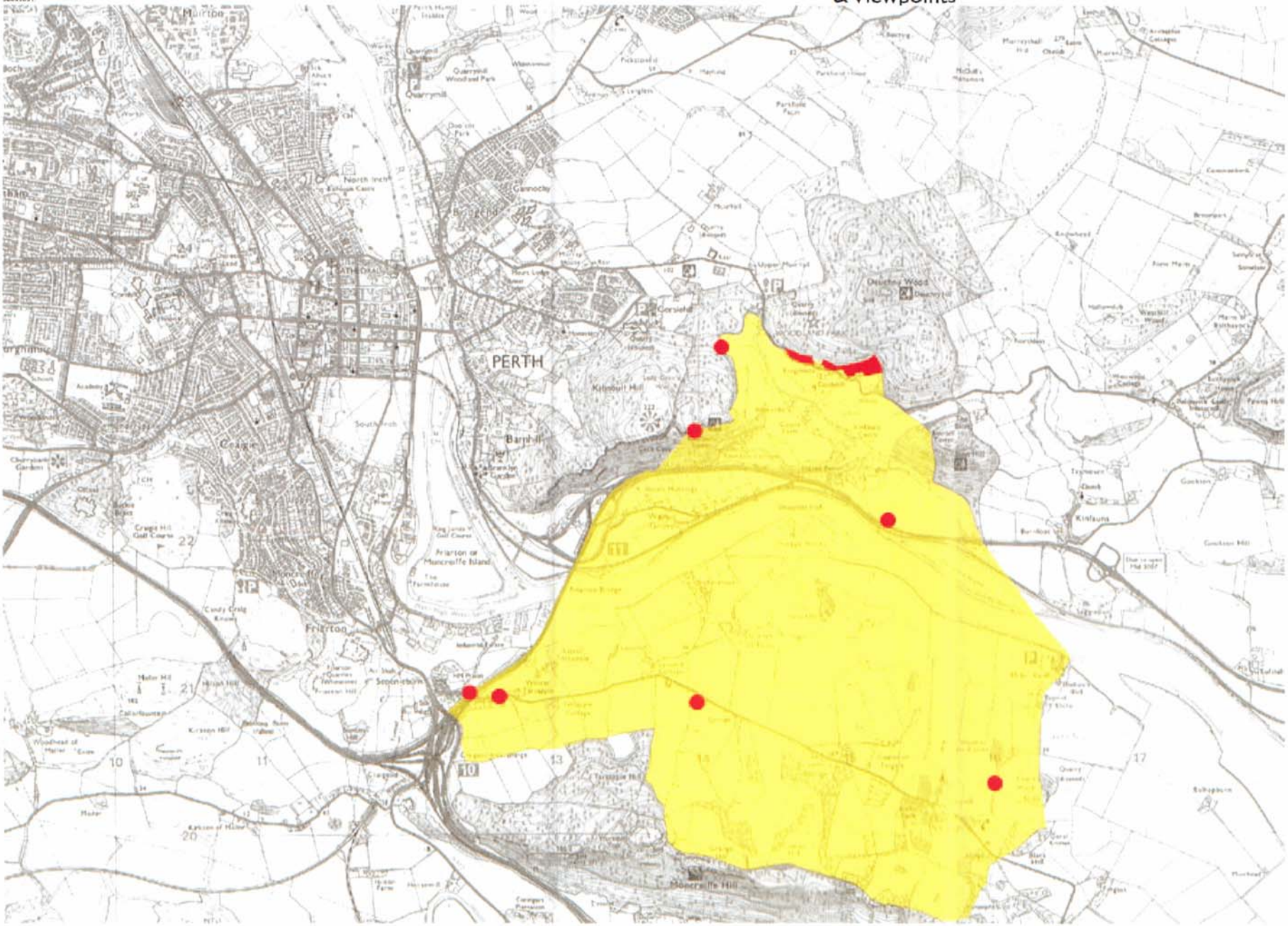
## Views

The site is on the southern edge of Deuchny Wood. it is in two sections on either side of the existing property at Kingswell.
Local views of the site i.e. from the Muirhall/ Balthayock road are limited due to landform, roadside planting and existing residential properties. The principal views towards the site are from the north-facing slopes of Moncrieffe Hill and the Rhynd road. Views of the site are most prominent for northbound traffic on the A90 crossing Friarton Bridge. Views for southbound traffic are limited due to landform and intervening planting on the lower slopes around Kinfauns. The site is partially visible from the approaches to Elcho Castle as well as from the popular public footpath leading from the Deuchny Wood car park to Kinnoull Tower.

Overall the site, despite its elevation, is well-contained by existing strong landscape features.

# Zone of Visual Influence

& Viewpoints

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# 2 Views to the site

This view is taken from the overbridge at Rhynd road and approximates to the view which is seen by northbound traffic as it approaches Friarton Bridge.

The site is below the strong horizon formed by Deuchny Wood and is well contained by existing planting.

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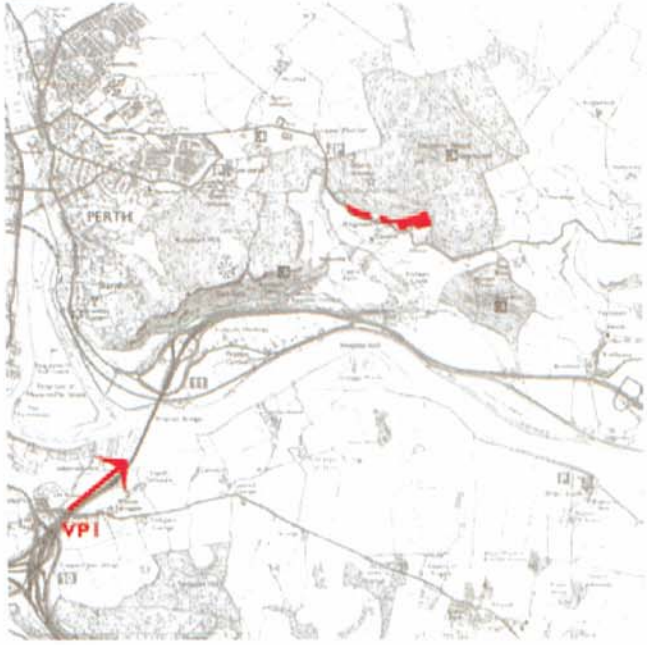


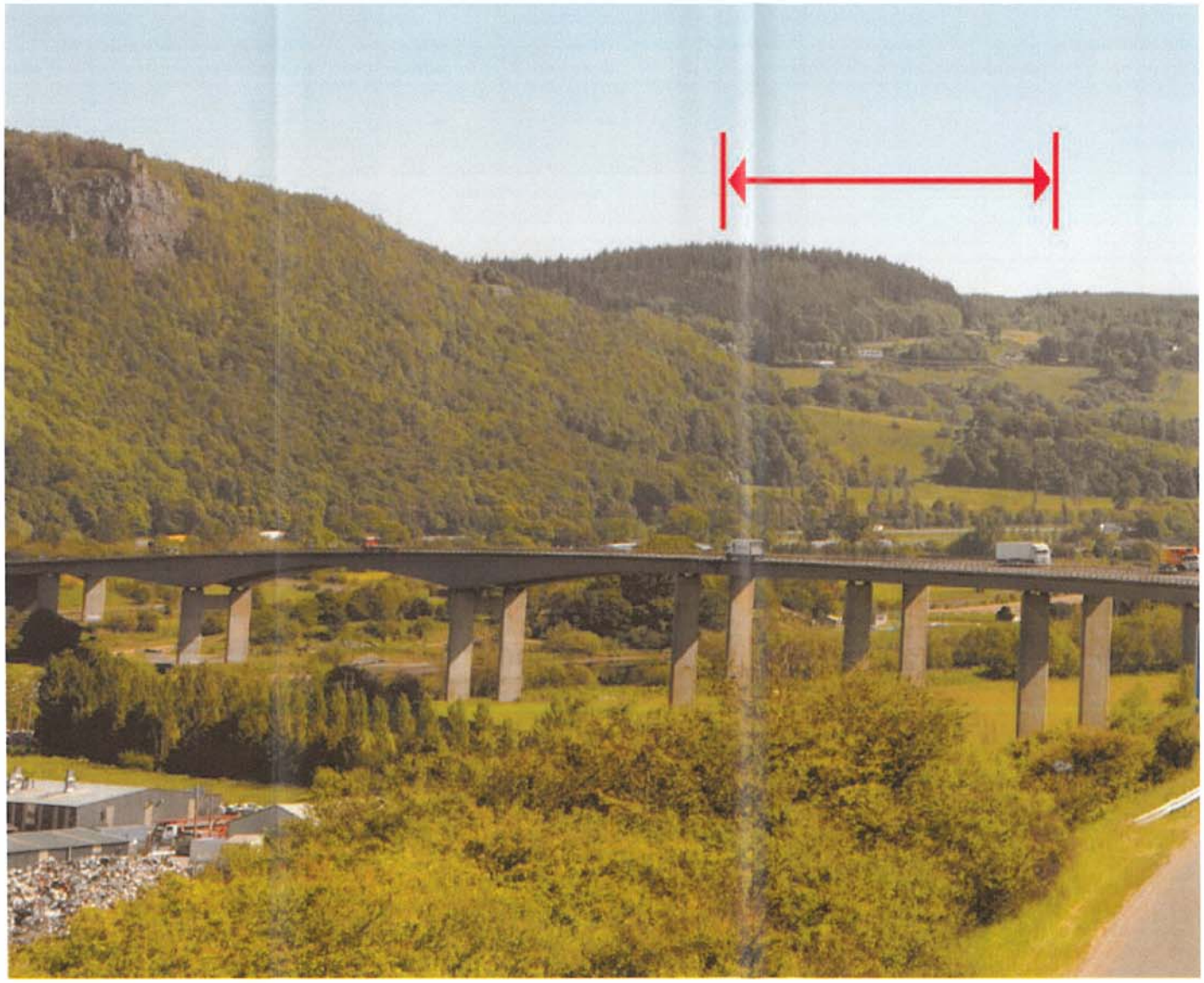

M90
Dundee 21
Forfar 34
Aberdeen 67
Coupar Angus 15

# 2 Views to the site *cont*

This view is taken from a line of residential properties at Rhynd road and shows the relationship between the site and Kinnoull Hill, Binn Hill, and the River Tay.

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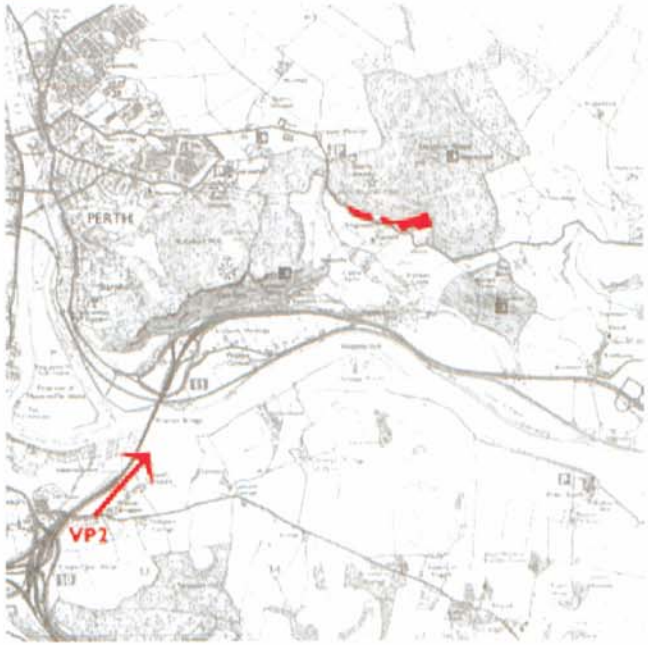

# 2 Views to the site *cont*

This view is Taken from the recently constructed Moncrieffe Hill (Tay) car park.

From this viewpoint both sections of the site are visible.

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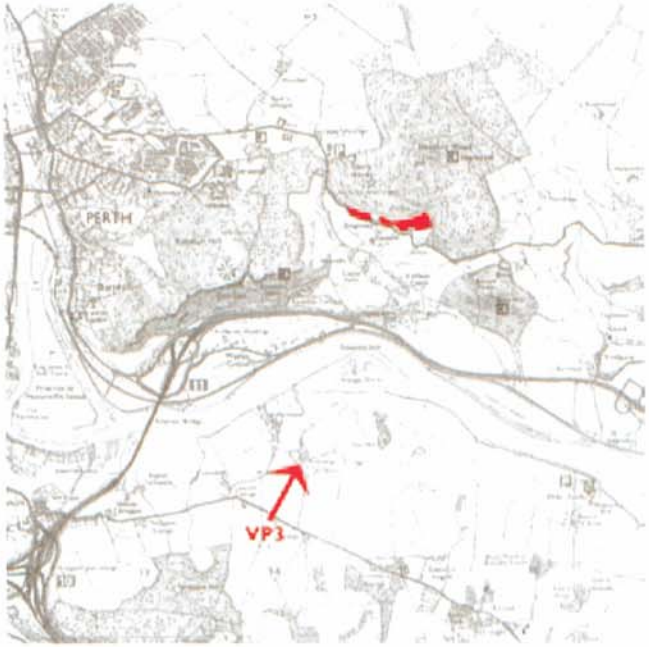


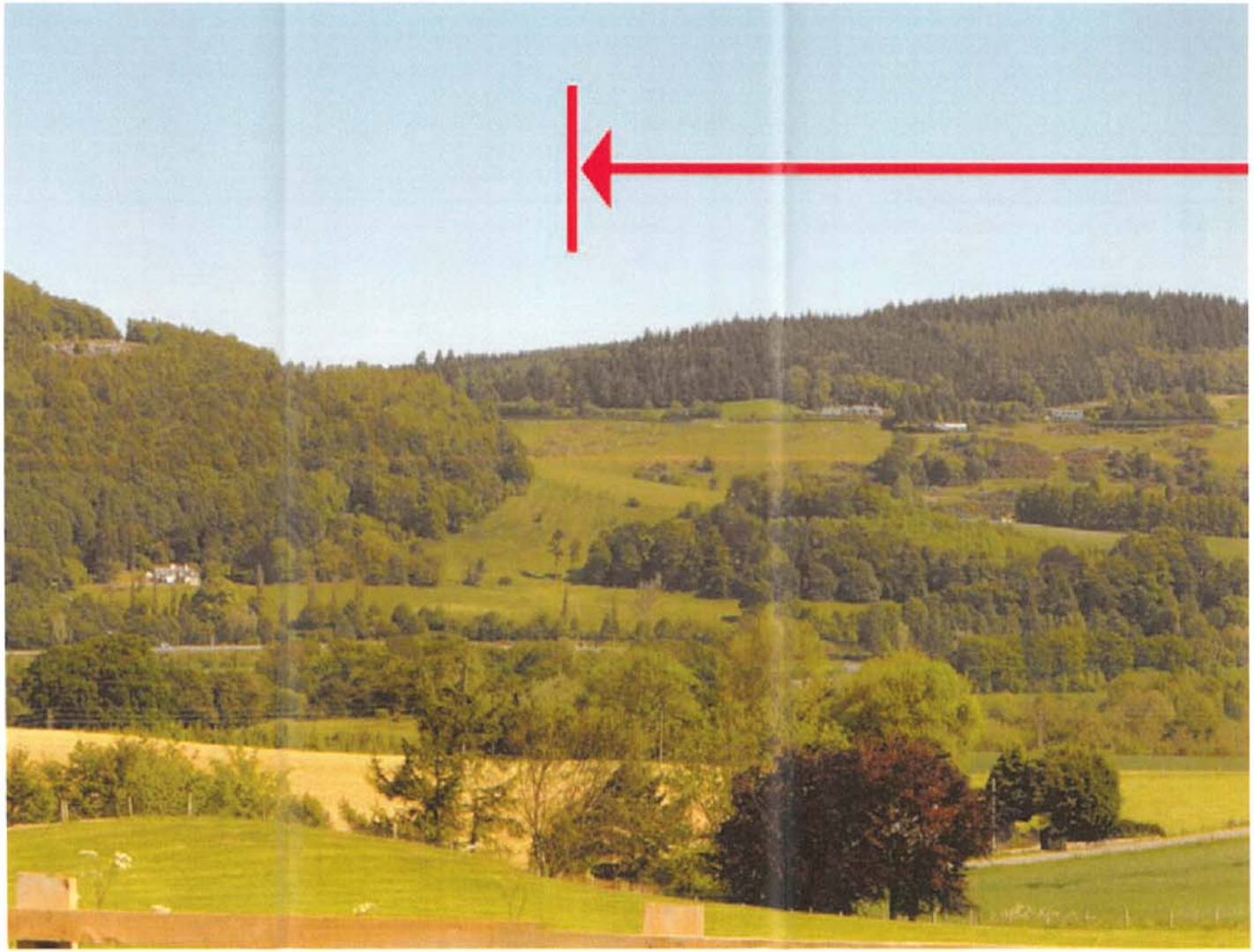

# 2 Views to the site *cont*

This view is taken from the approach to Elcho Castle.

Both sections of the site are visible but are partially screened by tree planting adjacent to existing properties.

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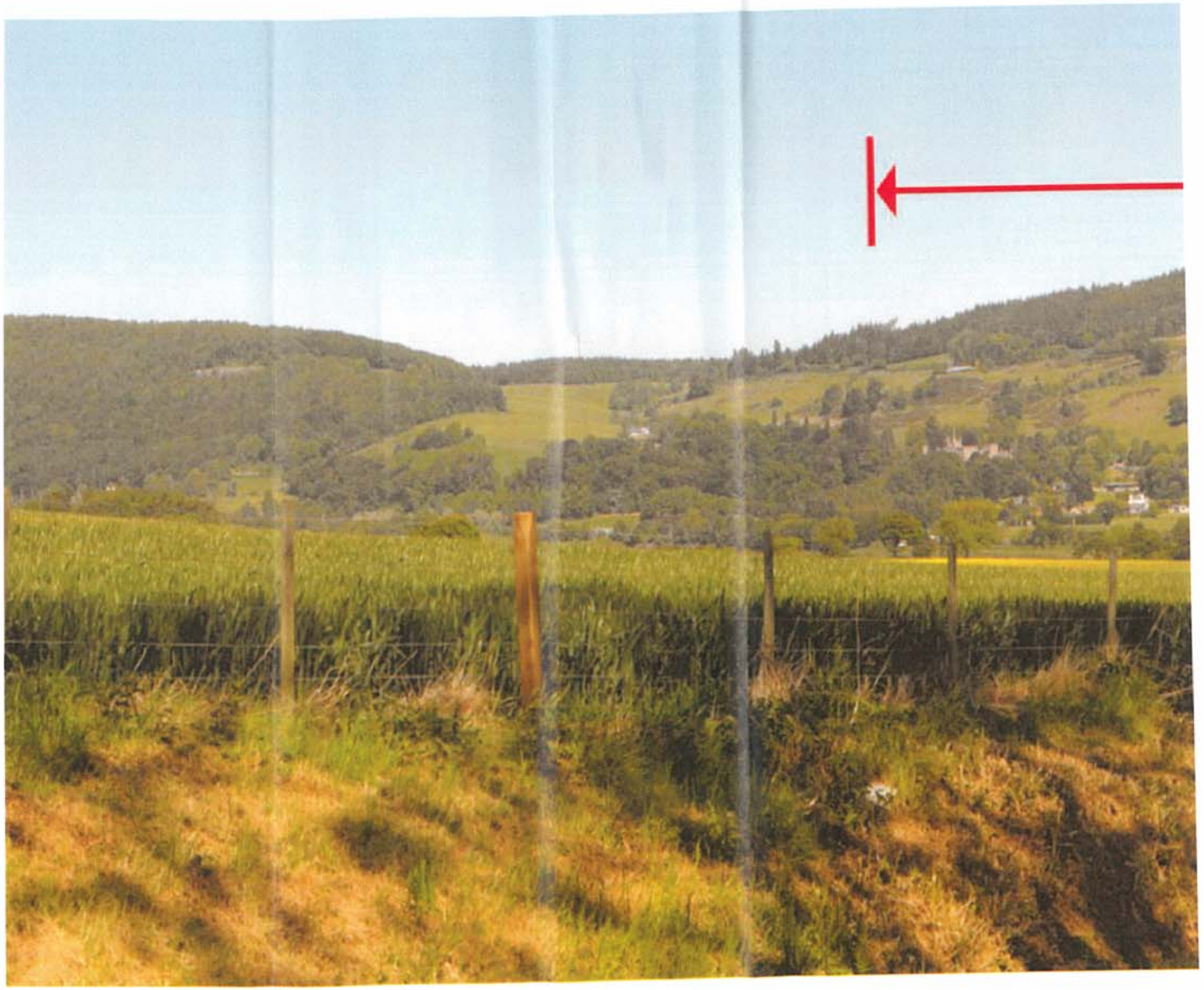

Please drive
slowly

# 2 Views to the site *cont.*

This view is taken from the popular public footpath from Deuchny Wood to Kinnoull Tower.

It shows the strong edge of Deuchny Wood and both sections of the site on either side of Kingswell.

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# 2 Views to the site *cont.*

This is the view from Kinnoull Tower.
The site is only partially visible.

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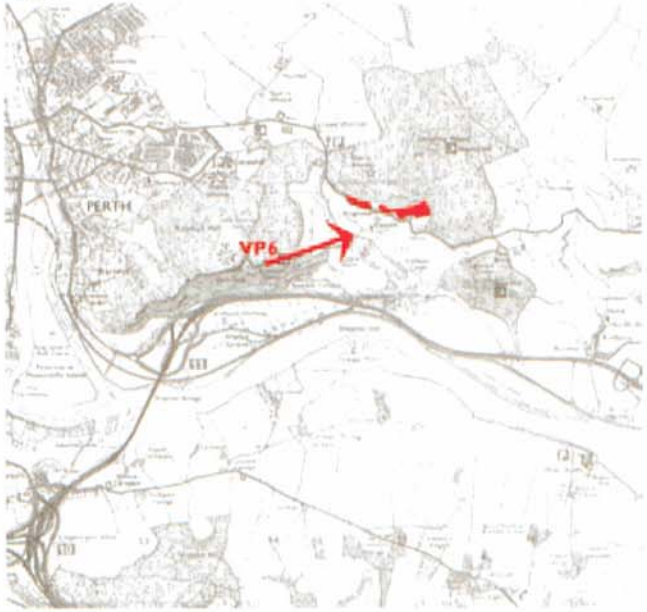

# 2 Views to the site *cont.*

This view is taken from the southbound layby on the A90.
The site is screened by tree planting associated with existing properties.

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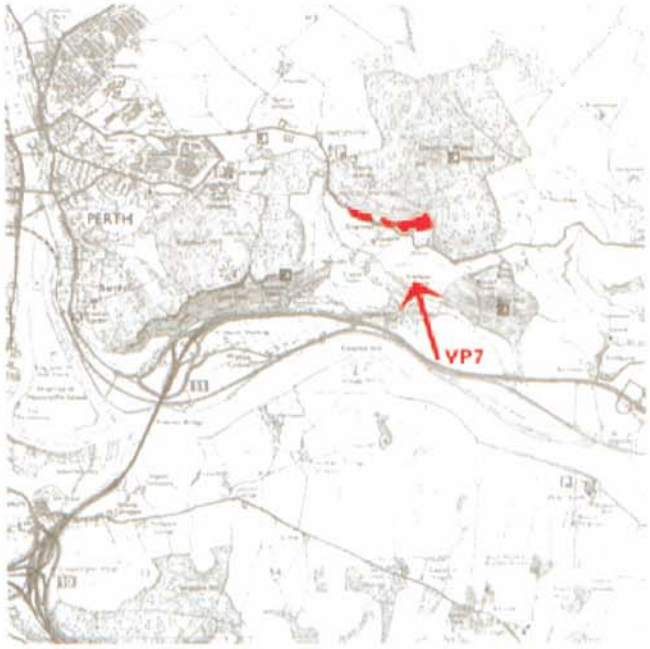

# 3 Landscape Strategy

The aim of the landscape strategy is to protect and enhance the character and integrity of the AGLV by providing a strong landscape framework for the proposed development.

This will be achieved by extending the southern edge of Deuchny Wood and establishing new blocks of woodland between building plots and existing properties.

The enclosed woodland blocks will consist of mixed species to reflect the character of existing woodland. Species will include oak, beech, ash, Scots pine and larch together with associated edge species.

The visual impact of new buildings will be further reduced by the use of dark materials for walls and window frames and slate for roofs so that the buildings will receed into their woodland settings. this will avoid the buildings becoming prominent features by virtue of their colour as the property at "Beechwood" does at present.

The visual impact of the proposed buildings will also be reduced as trees planted within garden plots mature as demonstrated by planting in existing properties.

Existing

Proposed
1
2
3
4

# 4 Visual Impact

Existing

Proposed

# 4 Visual Impact

Existing


Proposed

**Mark Richardson**

**From:** Andy Baxter [ABaxter@pkc.gov.uk]
**Sent:** 08 May 2011 13:20
**To:** Mark Richardson
**Cc:** Jimmy
**Subject:** Kinfauns

Hi Mark,

Please accept my sincere apologies for the delay in responding to your query in full.

A detailed response should have been issued to you sometime ago.

Nevertheless, I am now in a position to respond in detail. Although a couple of options was discussed on site, I shall base my response on a four dwelling proposal. As you are aware Sections 25 and 37(2) of the TCP (S) Act 1997 (as amended by the 2006 act) requires the determination of any planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. In terms of the Development Plan, although there are broad policies contained in the Structure Plan, the principal Development Plan policies which are relevant to this site are contained in the Perth Area Local Plan 1995 (incorporating alteration No1, Housing Land 2000) (PALP).

The site lies within the landward area of the PALP and within an area designated as being of great landscape value (AGLV), therefore the key test of this proposal compatibility with the Local Plan is whether or not the proposal is consistent with the requirements of Policy 32, which refers to Housing in the Countryside and Policy 12, which refers to development within the AGLV. Policy 32 of the PALP lists a number of categories of acceptable development within the Countryside which includes development within and adjacent to an existing building group; however the Policy also states that there will be presumption against new built development within the AGLV, unless the proposals relate to operational need. The presumption against built development within the AGLV is echoed in Policy 12.

In terms of other material considerations, these include assessment of the proposal against the Councils other approved policies namely the 2009 Housing in the Countryside Policy (HITCP) and the approved Planning Guidance Note (PGN) on Primary Education and New Housing Developments.

The 2009 HITCP is the most recent expression of Council policy towards new housing in the open countryside and is applicable across the entire landward area of Perth & Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories. The relevant category in this instance is category 1, which

offers support for new dwellings that extend existing building group into definable sites formed by existing topography and or well established landscape features which will provide a suitable setting. The policy also states that all proposals must respect the character, layout and building pattern of the group and demonstrate that a high standard of residential amenity can be achieved for the existing and proposed house(s). However, within the Policies preamble, it is stated that all developments must also comply with the specific landscape designations policies in the Local Plan, which in this case is Policy 12 of the PALP.

The approved PGN on primary education seeks a financial contribution (prior to a detailed consent) of £6395 per new main stream dwelling that are located within the catchment area a primary school that is operating at over 80%. In this case the local primary school would be Kinnoull Primary School. At the present time (and the foreseeable future) this primary school is operating at over its capacity therefore contributions for Primary Education will be most likely.

In terms of the overall merits of the proposal, I would consider the proposal to be consistent with the specific siting criteria relating to developments within / adjacent o existing building groups as contained in the Policy 32 of the PALP and the 2009 HITCP, however there is an underlining issue, as discussed previously, of the conflict in relation to compatibility with the restrictive AGLV policy, and the preamble of the HITCP 2009 - both of which seek to prohibit new built development within the AGLV unless they are associated with operational need.

As you are keen to progress this proposal to a formal planning application, to allow the Council an opportunity to consider supporting the proposal contrary to the Development Plan, as a minimum, I would strongly suggest that a supporting statement should be included with any formal planning submission which outlines your argument as to why the proposal would not have an adverse impact on the character of the AGLV - which, considering the landscape issues - may need to be supported by visual evidence (photomontages) from key view points to help demonstrate that the integrity of the AGLV is not comprised. As the overall aim of both the Local Plan and the 2009 HITCP is to protect the landscape character of the AGLV from inappropriate development there is in my personal opinion some scope for a departure from the Development Plan if it could be clearly demonstrated that there would be no adverse impact on the integrity of the AGLV.

I regret I can not be more positive at this stage, however at this early stage I can not give any absolute guarantees regarding the outcome of any future planning application particularly one which raises policies issues,

Andy Baxter

Planning Officer - Planning & Regeneration

Perth & Kinross Council

The Environment Service

Pullar House

35 Kinnoull Street

Perth PH1 5GD

Tel - 01738 475339

Fax - 01738 475310

Email - ABaxter@pkc.gov.uk <mailto:ABaxter@pkc.gov.uk>

Web - www.pkc.gov.uk <http://www.pkc.gov.uk>

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13 APR 2012

# PERTH AND KINROSS COUNCIL

Mr N Lowe
c/o Ristol Ltd
Touch Business Centre
Touch Estate
Cambusbarron
Stirling
FK8 3AQ

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 11th April 2012

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT**

Application Number: **11/01373/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 2nd September 2011 for permission for **Erection of 3 dwellinghouses Land 300 Metres East Of Kingswells Kinfauns** for the reasons undernoted.

[redacted]

pp Development Quality Manager

**Reasons for Refusal**

1. As the proposal will have a visible impact on the landscape character of an area designated as being of Great Landscape Value (AGLV), the proposal is contrary to Policies 12 and 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000), both of which state that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.

2 As a result of the proposal being contrary to a policy relating to a specific designation within the relevant Local Plan (Policy 12 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000), the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) which seeks to ensure that Local Plan policies relating to specific designations are complied with.

3 The proposal is contrary to Policy NE5: Green Belt of the Perth and Kinross Council Proposed Local Development Plan 2012 as the site is located within an area identified as Green Belt. This policy states that the Housing in the Countryside Policy does not apply in the Green Belt.

**Justification**

The proposal is contrary to the Development Plan, and there are no material reasons which justify approving the application.

**Notes**

**The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page**

**Plan Reference**

**11/01373/1**

**11/01373/2**

**11/01373/3**

**11/01373/4**

**11/01373/5**

**11/01373/6**

**11/01373/7**

**PERTH AND KINROSS COUNCIL**

**ERECTION OF THREE DWELLINGS AT KINGSWELLS ROAD, KINFAUNS**

**DELEGATED REPORT OF HANDLING**

| Ref No | 11/01373/FLL | *Case Officer* | *Team Leader* | *Consent to be Issued?* | |
|---|---|---|---|---|---|
| Ward | N1 – Carse | | | *Yes* | *No* |

**RECOMMENDATION**

Refuse the planning application on the grounds that the proposal is contrary to the Development Plan, the revised HITCP of 2009 and the Proposed Local Development Plan 2012.

## BACKGROUND & DESCRIPTION

The application site relates to a large paddock area to the north of a small group of residential properties located to the east of Kinoull Hill, along Kingswell Road. The main section of the site measures approx 250m in its length (west to east) and ranges from approx 60m-90m in its width (north to south). The 1.9ha site slopes generally south to north, with some degree of cross sloping in some parts of the site. The site is bounded to the north and east by mature woodland, and to the south and west by the curtilages of the existing neighbouring residential properties.

This planning application seeks to obtain detailed planning permission for the erection of three detached dwellings, with associated landscaping in-between the individual plots. The house types proposed are traditionally designed, and will offer accommodation over two levels with the upper level within the roof space.

A further planning application for a fourth house to a site to the west, is subject of a separate delegated report (11/01399/FLL).

## APPRASIAL

Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise.

In terms of the Development Plan, the principal policies are contained in the relevant Local Plan, which is the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) (PALP). As the site lies within the landward area of the PALP and within an area designated as being of Great Landscape Value (AGLV), the proposal must be assessed against PALP Policies 1, 12 and 32. Policy 1 relates to all new developments within the landward area and seeks (amongst other things) that all new sites are compatible with existing land uses and that all new sites have a suitable landscape framework which is capable of absorbing the development which is proposed.

Policy 32 refers to new housing in the countryside and lists a number of categories of development opportunities were new housing may be acceptable within the open countryside, whilst Policy 12 relates specifically to developments within the AGLV and states that there will be a presumption against new development within the AGLV, unless there is a proven operational need.

In terms of other material considerations, National Planning Guidance, and the Councils other approved policies on Primary Education and New Housing Developments and the revised HITCP (2009) which is the most recent expression of Council policy towards new housing in the open countryside are all material considerations.

Based on the above, I ultimately consider the key test(s) of the acceptability of this planning application to be based on two main issues, a) whether or not the site has a good existing landscape framework and the proposed residential use is compatible with its surroundings and b) whether or not the proposal is acceptable in land use terms, bearing in mind the provisions of the Development Plan.

I shall address these issues in turn.

Policy 1 of the PALP seeks to ensure that all new sites are compatible with existing uses and that all new sites have a good existing landscape framework. In terms of compatibility with existing land uses, as the immediate neighbouring land uses are principally residential, I have no particular issues with the compatibility of the proposal with the existing land uses. I do however note that some concerns have been raised within the representations concerning the potential impact that this proposal would have on existing private water supplies, which serve existing dwellings. My Environmental Health colleagues have commented on the proposal specifically on this matter and although they note the potential issues arising from the contamination of the private water supplies, they nevertheless do not object to the proposal subject to appropriately worded conditions being attached to any consent.

In terms of the existing landscape framework, the site is in my personal opinion clearly defined on all of its sides, and I consider the site to have a good existing landscape framework which is entirely capable of absorbing the development which is proposed. I therefore consider the proposal to be consistent with the aims of Policy 1 of the PALP.

Turning to the second issue, the acceptability of the land use (for residential), as the site falls within the landward area of the PALP, the proposal falls to be assessed against the Housing in the Countryside Policies (HITCP) as contained firstly within the Local Plan (Policy 32), and secondly, the revised HITCP of 2009. Both these versions of the HITCP offer some scope for the extension of existing building groups into definable sites, providing that the extension will not detract from the character or amenity of the existing group. However, within the preamble of the 2009 HITCP and within the text of Policy 32, it is clearly stated that all proposals must first comply with any specific designation policies, which in this case is Policy 12 of the PALP, which relates to the AGLV. Even without assessing the proposal against the building group specifics of either policy, the implications of Policy 12 should first be fully considered.

As a matter of fact, the proposal is contrary to the Policy 12 of the PALP as the explicit wording of the policy does not offer any scope for developments within the AGLV which are not associated with operational need. However, the Planning Service has historically taken the view in some recent cases to assess proposals within the AGLV on their own individual merits, taking into account their individual site

characterises and the likely impact on the visual amenity of the area and on the landscape character.

Proposals which have benefited from the support from the Planning Service (contrary to the Development Plan) have exclusively been proposals which have either offered no impact (adverse or otherwise i.e. not visible) or ones which would result in negligible visual impact on the current landscape. In this case, despite the sites mature boundaries, the site will clearly be visible from a number of view points in its current form, the introduction of housing (albeit of a tasteful design) and will inevitably result in a significant impact on the visual appearance of the landscape, which is perhaps magnified to some extent by the size of area which is being developed. Without assessing whether or not this impact would be adverse or not, the fact that it has been clearly demonstrated through the applicant's visualisations that the development of this site will material change the appearance of the landscape, limits my ability to consider offering support for this proposal. In order to consider supporting a proposal within the AGLV, which potentially results in a visual change in the appearance of the landscape, the proposal would need to have negligible impact from both short and long views into the site and the proposal not be altering the appearance of the landscape in any way, either positive or negatively *i.e. such as at Over Kinfauns -11/00897/IPL.*

Although this particular site will be seen with several buildings to its frontage from some southerly direction view points, I consider the introduction of three houses on rising land to ultimately result in a significant change in the appearance of the existing site and in my opinion this does not allow for the opportunity to depart from the Development Plan or the 2009 HITCP policy. I therefore consider the proposal to be contrary to both the Development Plan and the 2009 HITCP.

In terms of other material considerations, the approved Planning Guidance Note on Primary Education and New Housing Development seeks a financial contribution of £6,395 per residential unit in areas were the local primary school is operating at over its 80% capacity. In this case as the site falls within the school catchment of Kinnoull PS, which is presently operating at over its 80% capacity, if an appeal to the Councils LRB were to be successful, a formal decision should not be issued until such time as £19,185 (3x £6395) has been received or the delayed payment of this sum has been secured via the conclusion of a legal agreement.

Lastly, since this planning application was submitted the Council have approved its proposed Local Development Plan 2012. This Plan is now considered to be a material consideration in the determination of planning applications. Within this Plan, the site lies within an area designated as Green Belt, which encompasses Kinnoull Hill and land to its east. The Green Belt policy within the Proposed Plan is similarly aligned to the restrictive requirements of Policy 12 of the PALP, insofar as it seeks to ensure no development occurs within this specific area, without an operational need justification and specifically states that the HITCP 2009 will not apply within the Green Belt. Although this Plan is relatively new and the wording (and implementation) of the specific Green Belt policy has not yet been tested at either the DC Committee or on Appeal, I consider a similar approach to assessing proposals within the Green Belt as outlined previously in respect of the AGLV to be reasonable. To this end, I consider the proposal also to be contrary to the Policy NE5 of the Proposed Local Development Plan 2012.

Based on the above, I consider the proposal to be inconsistent with the Development Plan, the 2009 Housing in the Countryside Policy and the 2012 Proposed Local Development Plan and recommend the application for a refusal.

## DEVELOPMENT PLAN

The Development Plan for the area comprises the approved Perth & Kinross Structure Plan 2003 and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000). Although there are broad policies of relevance contained in the Structure Plan, the specific Development Plan policies are found in the Local Plan.

Within the Local Plan, the site lies within the landward area where Policies 2 and 32 are directly relevant.

*Policy 1 (General Landward)* seeks (amongst other things) to ensure that all new proposals are compatible with the existing land uses and that all new sites have a good landscape framework.

*Policy 32 (Housing in the Countryside)* is the Council wide policy on Housing in the Countryside which applies within most of the Landward Area. The policy outlines a number of categories for opportunities for new housing in the open countryside, providing that specific siting criteria can be achieved.

In addition, the site lies within an area indentified as being one of Great Landscape Value, where *Policy 12* is directly applicable. Policy 12 states that there will be presumption against development within this area, expect for operational need.

## NATIONAL PLANNING GUIDANCE / POLICIES

The Scottish Government expresses its planning policies through the National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars

<u>The Scottish Planning Policy 2010</u>

This SPP is a statement of Scottish Government policy on land use planning and contains:

- the Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are Paragraphs 92-96 which relate to Rural Development.

<u>Planning Advice Note 73 – Housing in the Countryside</u>

*Designing Places*, published in November 2001, sets out the then Scottish Executive's expectations of the planning system to deliver high standards of design in development for rural and urban areas. The design based Planning Advice Note (PAN) series is an additional means by which we can maintain the profile of design and identify best practice in planning for high quality development. This PAN supersedes and reinforces many of the key themes set out in *PAN 36 Siting and Design of New Housing in the Countryside* (published in 1991) and brings the advice up to date with the new emphasis on design and quality. The advice in this PAN sets out key design principles which need to be taken into account: by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.

## OTHER COUNCIL POLICIES

Housing in the Countryside Policy 2009

This policy is the most recent expression of Council policy towards new housing in the open countryside, and is applicable across the entire landward area of Perth & Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories. Of particular relevance to this planning application is Section 1 which relates to development which extend existing building groups into definable sites. In addition, the 2009 policy states within its preamble text that all proposal must also comply with the specific designation policies, which in this case is Policy 12 of the PALP which relates to development within the AGLV.

Planning Guidance Note – Developer Contributions May 2009

Across Scotland local authorities are having difficulty maintaining and developing infrastructure in order to keep up with the pressures of new development. Additional funding sources beyond that of the local authority are required to ensure that infrastructure constraints do not inhibit sustainable economic growth.

Planning Guidance Note–Primary Education & New Housing Development May 2009

This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

Proposed Local Development Plan 2012

Within the proposed plan, the site lies within an area identified as Green Belt where there is a presumption against new development.

## SITE HISTORY

There has been no formal site history relevant to this proposal.

## PKC CONSULTATIONS

The Executive Director (ECS) has commented on the propsoal and have indicated that as the local primary school (Kinnoull PS) is operating at over its 80% capacity, a financial contribution would be required prior to any consent being formally issues as per the requirements of the approved PGN.

The Environmental Health Manager has commented on the proposal (in terms private water supplies and has raised no objection, subject to an appropriate condition being attached to the consent.

Transport Planning have commented on the proposal and raised no objection.

Waste Services have commented on the proposal and have raised no objection, subject to conditions.

## EXTERNAL CONSULTATIONS

Scottish Water have been consulted on the planning application and have raised no objection.

BGKCC have commented on the proposal and raised an objection based on road safety issues.

**TARGET DATE:** 2 November 2011

## REPRESENTATIONS RECEIVED

Thirteen letters of representations have been received, the majority from local residents, all objecting to the proposal.

The main issues raised within the representations are,

- Impact on Private Water supplies and drainage
- Impact on road safety
- Proposal is Contrary to the Development Plan
- Proposal is Contrary to the 2009 HITCP
- Proposal is Contrary to national guidance
- Proposal is Contrary to the proposed LDP
- Proposal is Contrary to previous Council decisions

These issues are addressed in the appraisal section of this report.

## ADDITIONAL STATEMENTS

| | |
|---|---|
| Environment Statement | Not required |
| Screening Opinion | Not required |
| Environmental Impact Assessment | Not required |
| Appropriate Assessment | Not required |
| Design Statement / Design and Access Statement | Not required |
| Report on Impact or Potential Impact | Landscape Appraisal which includes a series of visualisations |

## PUBLICITY UNDERTAKEN

The planning application was advertised in the local press on the 9/9/11.

## LEGAL AGREEMENTS REQUIRED

None required.

## DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

## RECOMMENDED REASONS FOR REFUSAL

1 As the proposal will have a visible impact on the landscape character of an area designated as being of Great Landscape Value (AGLV), the proposal is contrary to Policies 12 and 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000), both of which state that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.

2 As a result of the proposal being contrary to a policy relating to a specific designation within the relevant Local Plan (Policy 12 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000), the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) which seeks to ensure that Local Plan policies relating to specific designations are complied with.

## JUSTIFICATION

The proposal is contrary to the Development Plan, and there are no material reasons which justify approving the application.

## INFORMATIVES

None

## PROCEDURAL NOTES

None

## REFUSED PLANS

11/01373/1 – 11/01373/7 (inclusive)

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, although thirteen letters of representations have been received.

## Mark Richardson

**From:** Andy Baxter [ABaxter@pkc.gov.uk]
**Sent:** 04 November 2011 08:30
**To:** Mark Richardson
**Subject:** RE: Applications 11/01373/FLL and 11/01399/FLL Kingswell

Morning Mark, and apologies for the delay in getting back to you.

The final recommendation has yet to be decided, however once I am in a position to confirm the recommendation I will let you ASAP.

Andy

---

**From:** Mark Richardson [mailto:Mark.Richardson@studioristol.com]
**Sent:** 31 October 2011 14:27
**To:** Andy Baxter
**Subject:** RE: Applications 11/01373/FLL and 11/01399/FLL Kingswell

Dear Andy,

I hope you are well.

Sorry for all the messages - I know you're busy.

I just wondered if you had drafted the committee report and recommendation for the above applications. Nothing on the web so far.

Many thanks

Mark

Mark Richardson
Director

**Ristol Ltd**
Touch Estate
Cambusbarron, Stirling FK8 3AQ
t. 01786 465 782
m. 07825 712090
f. 01786 471 438

Registration 321 813

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**Sent:** 04 November 2011 10:36
**To:** 'Andy Baxter'
**Subject:** RE: Applications 11/01373/FLL and 11/01399/FLL Kingswell

Dear Andy,

Many thanks. It was good to talk and I appreciate your efforts.

.look forward to hearing from you after your internal review. As discussed, I'm happy to come in and run through the project with Anne & Nick if this assists.

I hope the planning statement we submitted assists consideration. As we advanced in the application, the *SPP* and precedents (which are material considerations), take a broader approach to landscape heritage than adopted policy, advocating a direction based on facilitating rural development that is informed by landscape character and facilitates positive change. To this extent, we believe the AGLV policy objectives are met and advanced through the landscape and visual assessment, which meets the two key criteria of site capacity to accommodate the proposal and the enhancement of the planting proposal.

I hope this assists!

Best wishes,

Clark

**From:** Andy Baxter [mailto:ABaxter@pkc.gov.uk]
**Sent:** 04 November 2011 08:30

## Mark Richardson

**From:** Mark Richardson
**Sent:** 05 December 2011 08:59
**To:** [redacted]
**Cc:** 'Jimmy'
**Subject:** FW: Kinfauns

Nigel,

For info.

Regards

Mark

**From:** Mark Richardson
**Sent:** 05 December 2011 08:58
**To:** 'Andy Baxter'
**Subject:** RE: Kinfauns

Andy,

No problems. Thanks.

As discussed, if there is any concern over the landscape and associated policy assessment, I'd appreciate meeting with you and Ian White landscape architect prior to a decision being made.

Best wishes,

Mark

**From:** Andy Baxter [mailto:ABaxter@pkc.gov.uk]
**Sent:** 05 December 2011 08:35
**To:** Mark Richardson
**Subject:** Kinfauns

Morning Mark,

I understand you have been on the phone chasing an update on this one, I will be able to update you later this week as to what way we are heading.

Andy

Andy Baxter
Planning Officer (Planning & Regeneration)
Perth & Kinross Council
The Environment Service
Pullar House
Perth
PH1 5GD

Tel - 01738 475339
Fax -01738 475310
Email - ABaxter@pkc.gov.uk
Web - www.pkc.gov.uk

**To:** 'Andy Baxter'
**Subject:** Applications 11/01373/FLL and 11/01399/FLL Kingswell

Dear Andy,

I hope you are well. I've left a number of messages over the past weeks to find out where matters stand relative to both planning applications. As emailed on the 5th, I would be happy to meet with our landscape advisors, Ian White to review both projects should this assist advancing determination.

Best wishes,

Mark

Mark Richardson
Director

**Ristol Ltd**
Touch Estate
Cambusbarron, Stirling FK8 3AQ
t. 01786 465 782
m. 07825 712090
f. 01786 471 438

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## Mark Richardson

**From:** Mark Richardson
**Sent:** 10 February 2012 11:34
**To:** 'Andy Baxter'
**Subject:** RE: Kingswells, Kinfauns - Applications 11/01373/FLL and 11/01399/FLL

Dear Andy,

Just a note to see how matters are progressing with the application?

Regards

Mark

**From:** Andy Baxter [mailto:ABaxter@pkc.gov.uk]
**Sent:** 26 January 2012 13:03
**To:** Mark Richardson
**Subject:** RE: Kingswells, Kinfauns - Applications 11/01373/FLL and 11/01399/FLL

Hi Mark,

We are still considering your sites, and we hope to make a decision on what the final recommendation will be shortly, and are conscious of your willingness to meet should the recommendation be refusal.

Andy

---

**From:** Mark Richardson [mailto:Mark.Richardson@studioristol.com]
**Sent:** 18 January 2012 13:50
**To:** Andy Baxter
**Subject:** RE: Kingswells, Kinfauns - Applications 11/01373/FLL and 11/01399/FLL

Dear Andy,

I hope you are well. Further to our conversations and email below, I note that the Over Kinfauns application as approved at Committee today. Hopefully this assists a favourable determination of the above planning applications?

Best wishes,

Mark

**From:** Mark Richardson
**Sent:** 16 January 2012 15:27
**To:** 'Andy Baxter'
**Subject:** Kingswells, Kinfauns - Applications 11/01373/FLL and 11/01399/FLL

Dear Andy,

Thankyou for the telephone call on Thursday, which I appreciated.

I look forward to your assessment of the project and thankyou for confirming that should you be minded to recommend refusal, that a meeting with myself and the project landscape architect can be arranged pre determination to review the assessment of the project against the AGLV and associated policy context.

I read with great interest the 18th January Committee Report for application **11/00897/IPL** in relation to a development of two houses at Over Kinfauns. This raises very similar policy issues to the two applications at

Kingswell and it is reassuring to see this application has been recommended for approval. I note that the application generated similar numbers of local objection to the above Kinsgwells applications and appreciate it will need to go to committee.

Of relevance to the Kingswell applications are:

1. The role of building groups in determining the capacity of a rural site to accommodate development;
2. The policy conclusion that a site's characteristics, including building groups and associated landscape containment, present themselves as material considerations to justify approval.

I believe through the approach adopted for the Kingswells proposals in **identifying** the development sites, the **siting** and **materials** of the properties and the **landscape enhancement** measures, that these combine to present a credible set of material considerations for granting planning consent.

As the Ian White Associates landscape assessment which accompanied the applications demonstrate, Kingswells is a defined building group and not an isolated site with a lack of landscape framework as characterised by previous planning applications within the AGLV. Furthermore, it is a building group with a contained landscape within which the development can be absorbed. Importantly, the proposed strategic planting that is integral to the applications offers the ability to enhance the quality of the AGLV, thereby facilitating positive landscape change in accordance with the SPP.

. hope this commentary assists your consideration.

With best wishes,

Mark

Mark Richardson
Director

**Ristol Ltd**
Touch Estate
Cambusbarron, Stirling FK8 3AQ
t. 01786 465 782
m. 07825 712090
f. 01786 471 438

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Kingswell.

4(2)(i)

12/18

Perth and Kinross Council
Development Control Committee – 18 January 2012
Report of Handling by Development Quality Manager

**Residential development (in principle) at Land 80 Metres South East Of Over Kinfauns Farm, Church Road, Kinfauns**

Ref No: 11/00897/IPL
Ward No: 1- Carse of Gowrie

**Summary**
This report recommends approval of a planning in principle application for a residential development in Kinfauns, on the grounds that the proposal is contrary to the Development Plan and the 2009 Housing in the Countryside Policy, but the sites location within an existing building group is considered to be a material reason that justifies a departure from the Development Plan.

## BACKGROUND AND DESCRIPTION

1 The application site relates to an area of grassed paddock that is sandwiched between two existing residential properties in Kinfauns, a small hamlet of dwellings located to the north of the A90 and east of Kinnoull Hill. The 0.5ha site is fairly regular in its shape with a depth of approx 60m (west to east) and a length or frontage of approx 100 metres. The site is naturally sloping, with the slope generally rising diagonally upwards across the site from the SE corner to the NW corner. The site is immediately bounded to the north and south by garden ground associated with the two neighbouring existing properties, to the west by an existing surfaced private vehicular access and to the east by a post and wire fence.

2 This planning application seeks to obtain planning in principle consent for a residential development. An indicative layout showing two dwellings, with the site divided relatively evenly across its middle (east to west) has been submitted, which also includes indicative footprints for the two dwellings. Vehicular access to each of the plots would be via the existing private access. Although not indicated within the planning application, the applicant has indicated verbally that the dwellings will offer accommodation over one level only, perhaps with a split level design to utilise the natural slopes of the site and to avoid excessive under-building or cuttings. This is further addressed in the Appraisal section of this report

## NATIONAL PLANNING POLICY AND GUIDANCE

3 The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, Scottish Historic Environmental Policy 2009 and a series of Circulars.

**The Scottish Planning Policy 2010**

4 The SPP is a statement of Scottish Government policy on land use planning and contains:

- the Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

5 Of relevance to this planning application are

- Paragraph 66 – 91: Housing
- Paragraphs 92 – 97: Rural Development

**PAN 72 - Housing in the Countryside.**

6 The aim of the PAN is to provide widespread good quality rural housing. The document recognises that more people want to live and work in rural areas. Small scale building groups, such as proposed by the current application, are seen as appropriate layouts within rural areas. The PAN seeks to ensure that potential sites are accessible and well designed.

**DEVELOPMENT PLAN**

7 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000) (PALP). As there are no policies of strategic relevance contained in the Structure Plan, the key Development Plan policies are found in the Local Plan.

**Perth Area Local Plan 1995**

8 Within the Local Plan, the site lies within the landward area, where **Policies 1 (General Development)** and **32 (Housing in the Countryside)** are directly applicable, Policy 1 seeks (amongst other things) to ensure that new development within the landward area have a suitable landscape framework and are compatible with existing land uses whilst Policy 32 lists a number of acceptable categories of development for new housing in the countryside, which includes development within existing building groups.

9 In addition to being within the landward area, the site is also within an area designated as being an Area of Great Landscape Value (AGLV), where **Policy 12 (AGLV)** is directly applicable. Policy 12 states that there will be a presumption against new development within this area, unless there is a proven operational need.

**Perth Area Draft Plan 2004**

10 Members will be aware that on the 30 January 2008 the Council's Enterprise and Infrastructure Committee took the decision not to progress this plan to a finalised stage. Therefore, although the contents of the Draft Plan should be noted, I consider the weighting which is given to its policies and proposals should be limited at this point in time.

## OTHER COUNCIL POLICIES

**Planning Guidance Note: Primary Education and New Housing Development 2009**

11 This developer contributions policy was approved by the Council on 6 May 2009. The policy applies over the whole administrative area of Perth and Kinross. This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development.

**Affordable Housing Policy 2005**

12 This policy is applicable to all new housing sites (even ones identified in the Local Plans) with the exception of those with existing consents, an approved development brief, or proposals involving 4 or less units. As the physical size of the site will restrict the numbers to a maximum of two dwellings only, there is no requirement for affordable housing provision.

**Housing in the Countryside Policy 2009**

13 This policy is the most recent expression of Council policy towards new housing in the open countryside, and is applicable across the entire landward area of Perth and Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories, and does not conflict with any other policy within the Local Plan. Of particular relevance to this planning application are section 1, which relates to new development within an existing building group and section 2, which relates to infill opportunities.

## SITE HISTORY

14 There has been no previous site history relating to this site.

## CONSULTATIONS

15 **The Executive Director of Education and Children Services** has commented on the planning application and confirmed that the local primary school (Kinnoull) is operating above its 80% capacity and that a financial

contribution should be sought from the applicant at the detailed planning application stage.

16 **Environmental Health Manager** has commented on the planning application in terms of both contaminated land issues and private water supplies and has made no objection to the proposal subject to appropriate conditions regarding private water supplies.

17 **Scottish Water** have been consulted on the planning application and have raised no objections.

18 **SEPA** have commented on the planning application and have raised no concerns.

## REPRESENTATIONS

19 Twelve letters of representation have been received exclusively from local residents and all objecting to the planning application. In addition to these representations, two additional representations have been received from the West Carse Community Council and the local neighbourhood group, Kinfauns Community Company also objecting to the proposal. The main areas of concern raised within all the representations are:

- Contrary to the Development Plan
- Contrary to National Planning Guidance
- Adverse impact on the AGLV
- Adverse impact in the visual amenity of the area
- Potential adverse impact on private water supplies and existing private drainage system
- Concerns over the suitability of the vehicular access

20 These matters will be addressed in the appraisal section.

## ADDITIONAL STATEMENTS

21

| | |
|---|---|
| Environment Statement | Not required |
| Screening Opinion | Not required |
| Environmental Impact Assessment | Not required |
| Appropriate Assessment | Not required |
| Design Statement / Design and Access Statement | None |
| Report on Impact or Potential Impact | Limited Visualisations of the site. |

## APPRAISAL

22 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of this planning application to be made in accordance with the provisions of the Development Plan, unless material

considerations indicate otherwise. In terms of the Development Plan, the principal policies of relevance are listed in the Development Plan section above and an assessment of these policies is undertaken below. In terms of other material considerations, assessment against the Council's approved PGN on Primary Education and the 2009 Housing in the Countryside Policy (HITCP) are the key material considerations. However, as stated elsewhere in the report, the site's physical characteristics are also considered to be significant material consideration which ultimately justifies an approval recommendation, contrary to the Development Plan.

**Policy**

23 In terms of the Development Plan Policy, the principal policy of specific land use relevance is Policy 32 of the PALP, which is the Local Plan version of the HITCP. This policy needs to be read in conjunction with the revised HITCP of 2009, which is the latest expression of Council Policy towards new housing in the open countryside. In addition, the site lies within an Area of Great Landscape Value (AGLV), where Policy 12 of the PALP is directly relevant. Policy 12 states that there will be a presumption against build development within the AGLV unless there is a proven operational need. Accordingly, the key test of the acceptability of this planning application in policy terms is: 1) whether not the not the proposal accords with the HITCP, as contained in the Local Plan and the 2009 version; and 2) whether or not there is justification for supporting a non-operational need development within the AGLV. For reasons stated elsewhere in the report, I consider the proposal to be contrary to the Development, Plan, and to the 2009 HITCP, but consider there to be material considerations which justifies recommending the planning application for approval.

**Housing in the Countryside Policies**

24 As a preamble, the aim of both the HITCPs as contained in the Local Plan and the revised 2009 Policy is, in broad terms to facilitate the opportunity for the erection of new dwellings in rural areas within either existing groups of buildings or logical infill sites between established landscape features, or for conversions / replacement of redundant domestic or non-domestic buildings, which may allow for slightly higher numbers of dwellings to be supported. Both the Local Plan version of the HITCP and the 2009 version offer support in principle for infill opportunities within existing building groups, providing that the proposal does not detract from the character or amenity of the existing group and that a suitable landscape framework is place. In terms of this site, I consider the site to be a natural infill (or gap) site opportunity which is clearly set between two established dwellings, which are themselves part of an well established building group. The site's frontage (or 'gap') if split evenly into two, and the plot sizes, would be directly comparable to the existing dwellings to the north and south and as such, the proposal would in my opinion be in keeping with the existing group and would not necessary detract from its character or amenity.

25 In terms of landscape setting, I accept that the rear (eastern) boundary is perhaps less defined than the other three boundaries, however typically for an

infill / gap site it is extremely uncommon for the rear boundary to be as defined as the other three and I see this site to be no different to (in terms of landscape framework) many others which have been supported previously in Perth and Kinross and indeed in the neighbouring plots. I therefore consider the landscape setting of the site to be acceptable.

26 Within both the Local Plan and the 2009 versions of the HITCP, ribbon development is specifically mentioned as a form of development which will not be supported. I note that a number of representations consider this proposal to constitute ribbon development, however I do not consider a infill or gap site to constitute undesirable ribbon development, as ribbon development is more commonly attached to proposals which extend an already linear building pattern as opposed to development within it.

27 However, regardless of the aforementioned, within the 2009 HITCP it is explicitly stated that policies within the various Local Plans which relate to specific designations are still applicable. In this case, Policy 12 of the PALP relates specifically to the AGLV and states that there is a presumption against new development within the AGLV area except for operation need without any caveats. As this proposal is for mainstream housing, it is a matter of fact that the proposal is contrary to the 2009 HITCP.

**Impact on the Landscape Character of the AGLV**

28 The explicit nature of Policy 12 of the PALP renders the proposal contrary to the Local Plan, due to it being unrelated to operational need. However, in my opinion, the site characteristics of the site should be considered as a material consideration which must be fully considered before simply refusing the proposal based on the fact that it lies within the AGLV. Although identified as a settlement within the PALP, there is no doubt that Kinfauns is a well established group of dwellings and that development within this building group would have less of an impact on the visual appearance of the area or the landscape character than a new dwelling in an isolated or prominent location. Although no details of the proposed house types (or ridge levels) have been submitted, it is my view that suitably designed dwellings would have little adverse impact on the landscape character of the AGLV nor would development of this site result in a significant adverse visual impact. I fully appreciate that the Council have refused planning applications within the AGLV over the years, and have been extremely successful in defending related appeals. However the majority of these have been on isolated sites with a lack of landscape framework. I therefore consider the proposal to be contrary to the AGLV policy, but consider the site characteristics as a reason for ultimately recommending the approval, contrary to the Development Plan.

**Visual Impact**

29 The site would be visible from some local public roads, and the ridge lines of any new dwellings would potentially be visible from the A90 to the south albeit not within the natural sightlines of the road users. However, the new dwellings would be viewed within the context of an existing building group, and providing the proposed dwellings are suitably designed (perhaps with a split level design

to utilise the natural slopes of the site), there will be limited adverse visual impact on the area as a result of this development. This can be controlled through a condition on any consent issued.

**Impact on Residential Amenity**

30 Even acknowledging the natural slopes of the site, it is likely that the distances from neighbouring dwellings will go some way to limit the potential impact that the proposal will have on the existing, adjacent residential properties, in terms of direct overlooking, loss of privacy or loss of sunlight. It is noted that no concerns regarding loss of privacy or overlooking have been made within the representations.

**Road related issues**

31 Within the representations, concerns have been raised regarding the suitability of the existing private access to accommodate further vehicular movements associated with potentially two additional dwellings. Whilst I note these concerns, and acknowledge that the existing access is somewhat narrow and steep, the existing access is nevertheless a straight road with no obvious visibility problems for its existing users, and the lack of any formal passing places is negated by the fact that there are several available informal passing places. In my view the natural narrowness of the road will also act to keep speeds low, and I do not consider that the addition of potentially two houses will generate an unacceptable amount of extra traffic which would compromise road and pedestrian safety. This is a view shared by my Transport Planning colleagues.

**Affordable Housing**

32 As the development of this site will be limited to two dwellings only, there is no affordable housing requirement attached to this proposal.

**Education Contributions**

33 As the proposal falls within the school catchment of Kinnoull Primary School, an Education Contribution is likely to be required prior to the issuing of any detailed consent. As this planning application is for a residential development in principle, an appropriately worked condition will be attached to the consent.

**Bio-diversity Issues**

34 There are no known bio-diversity issues associated with this site.

**Drainage**

35 As there are no public sewers within the area, the site would have to be drained (foul and surface water) via a private system. Concerns have been raised within the representations that highlight the poor ground conditions within the area and existing problems with some of the older private drainage systems, some of which may be within the site boundaries. Although it is accepted that ground conditions may be challenging and difficult on this site (as is the case in most of

the Carse of Gowrie), private drainage is essentially a matter for Building Standards to fully consider, however it is likely that draining this site would be a technical issue that could be resolvable through a suitably designed engineering solution.

**Private Water Supplies**

36 It has been noted within the representations that several private water supplies are potentially affected by the development of this site, and that existing septic tanks and or / soakaways may be present within the site boundaries. During the construction phase, any earthmoving works could potentially break or otherwise damage any existing private water supply pipes, potentially allowing ingress of surface water or septic tank influent or effluent into the private water supply. In addition, any break or damage of existing pipes may affect the quantity of supply. Any surface water or septic tank influent or effluent ingress into the private water pipes would likely result in bacteriologically contaminated water which is known to potentially cause adverse health effects. The development of the site could also potentially result in a reduced accessibility to the existing pipework for the purposes of renewal or repair which could potentially result in a loss of accessibility could have serious implications for future maintenance or subsequent provision of the existing private water supply.

37 It is therefore recommended that prior to the commencement of any development on site, a full site investigation survey of the site is undertaken to identify the location of any private water supplies affected by the site and the presence of any water pipes, septic tanks or soakaways within the site boundaries. If any of the aforementioned are found to be present, the onus would firmly be on the applicant to prevent disruption to any known private water supply or third party septic tanks and soakaways to ensure that any existing private water supplies are not contaminated or their quantity of supply adversely affected. In addition, in the event that any third parties private water supplies, septic tanks and soakaways are to be retained within the site boundaries.

**Flooding Issues**

38 I am not aware of any issues concerning direct flooding from any nearby watercourses, and issues arising from the disposal of surface water, from the site and into the site, will be addressed through the finalised private system scheme.

## LEGAL AGREEMENTS

39 None required at this stage.

## DIRECTION BY SCOTTISH MINISTERS

40 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## CONCLUSION AND REASON FOR RECOMMENDATION

41 The recommendation of approval of this planning application is contrary to both the Development Plan, the HITCP 2009 and has generated a significant level of local opposition. However, I do consider this site to be almost unique in the context of the AGLV insofar it is within a established building group and consider this a material reason to justify approval. I appreciate the concerns of the objectors regarding the sensitive issue of private water supplies, however I am confident that this matter can be suitably addressed for all parties involved.

## RECOMMENDATION

**A Approve the planning application subject to the following conditions:**

1 Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:

(i) the expiration of 3 years from the date of the grant of the planning permission in principle,

(ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or

(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

2 The development shall not commence until the following matters have been approved by the Planning Authority: the siting, design and external appearance of the development, the landscaping of the site, all means of enclosure, the car parking and means of access to the site.

3 Consent is herby granted for a maximum of two dwellings only.

4 The layout submitted is for indicative purposes only and is not approved.

5 The footprint of each dwelling (including a garage) shall not exceed more than 25% of their individual plot.

6 Each dwelling shall offer living accommodation over one level only, to the satisfaction of the Council as Planning Authority.

7 The proposal must comply fully with the requirements of the Council's approved Planning Guidance Note on Primary School Education and New Housing Developments (2009).

8 Prior to the commencement of any development, precise details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways, private water storage facilities, supply pipes or other supply infrastructure serving Over Kinfauns Farm, Over Kinfauns Farm Cottage, Taymount and Ben Vorlich, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The approved protective or replacement measures shall be put in place before site works commence and shall be so maintained throughout the period of construction.

**Reasons:**

1 In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.

2 This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.

3 In the interest of residential amenity.

4 This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.

5 in the interest of residential amenity

6 In the interest of visual amenity.

7 In order to comply with Council Policy.

8 In the interest of proper site management.

**B JUSTIFICATION**

1 The proposal is contrary to the Development Plan however there are material reasons which justify approval of the planning application.

**C PROCEDURAL NOTES**

1 None required.

**D INFORMATIVES**

1 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.

2 The site lies outwith the publicly sewered areas and consequently drainage investigations have not been fully undertaken.

3 The applicant shall ensure the private water supply for the house complies with the Water Scotland Act 1980 and the Private Water Supply (Scotland) Regulations 2006. Detailed plans regarding the private water supply, including the nature and location of the source, any storage tanks/pipe work and the filtration and disinfection treatment proposed to ensure an adequate and consistently wholesome water supply is provided shall be submitted to Perth and Kinross Council Environmental Health in line with the above act and regulations.

4 The applicant is advised that a Controlled Activities Regulations (CAR) application is required and contact should be made with SEPA at an early date to establish the requirements for this application

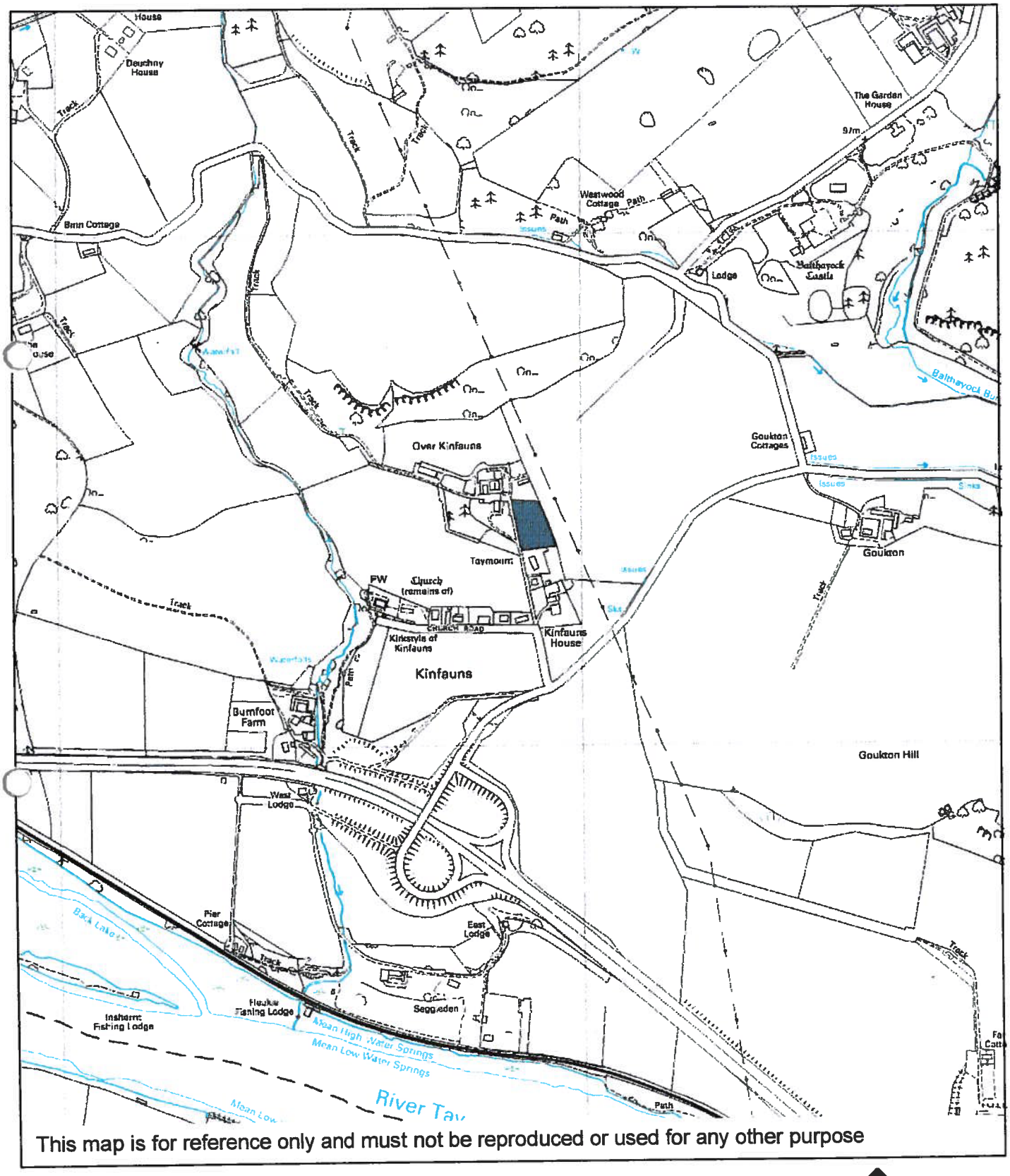
| | |
|---|---|
| Background Papers | Fourteen letters of representations |
| Contact Officer: | Andy Baxter, Ext 75339 |
| Date: | 13 December 2011 |

**Nick Brian**
**Development Quality Manager**

# Perth & Kinross Council

## 11/00897/IPL

### Land 80 Metres South East Of Over Kinfauns Farm Church Road

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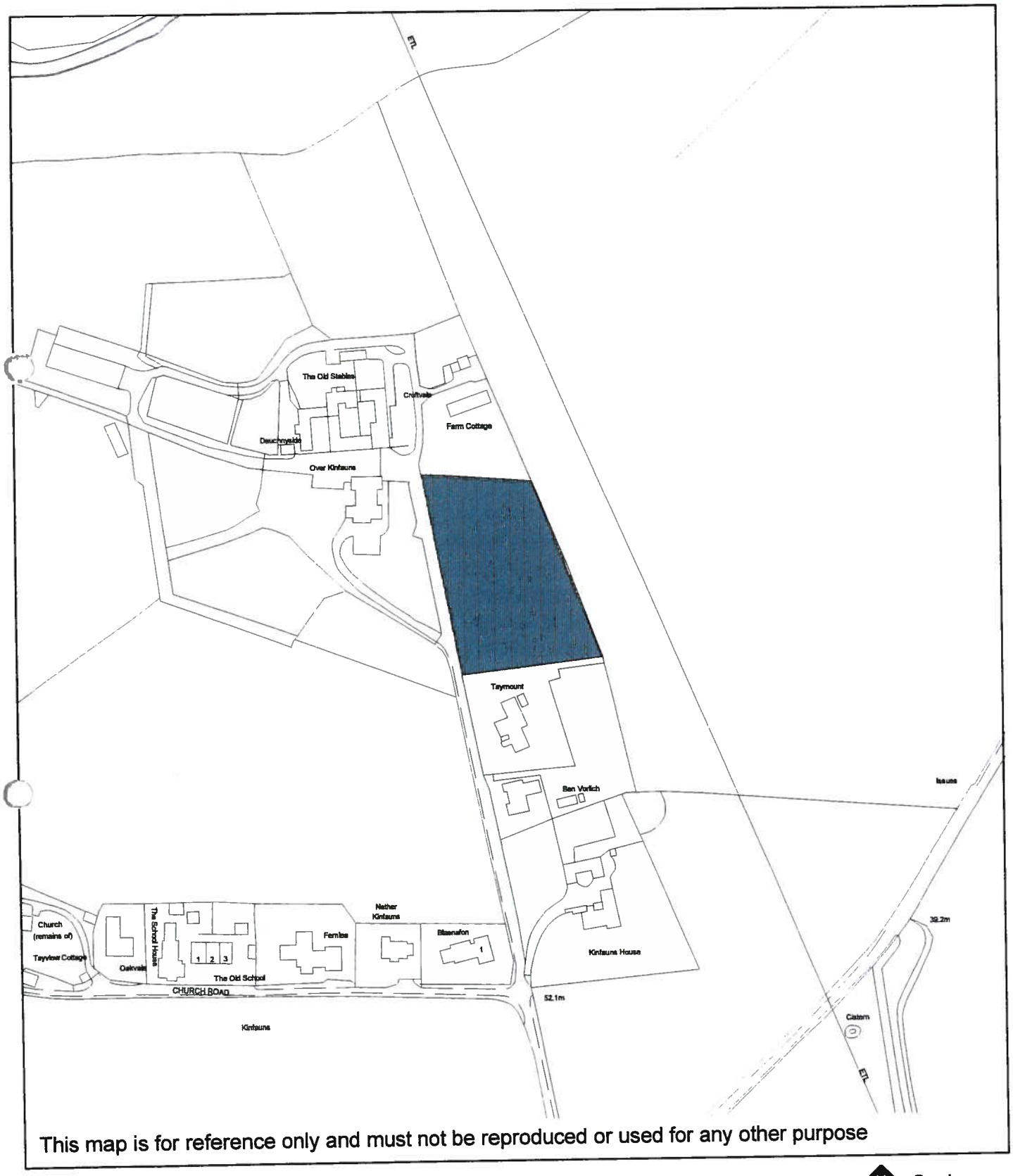
Scale
1:10000

# Perth & Kinross Council

## 11/00897/IPL

Land 80 Metres South East Of Over Kinfauns Farm Church Road

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Scale 1:2500

# Scottish Planning Policy

February 2010
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ISSN 1741 1203

## RURAL DEVELOPMENT

92. The planning system has a significant role in supporting sustainable economic growth in rural areas. By taking a positive approach to new development, planning authorities can help to create the right conditions for rural businesses and communities to flourish. The aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.

93. The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural development set out in the development plan should respond to the specific circumstances in an area whilst reflecting the overarching aim of supporting diversification and growth of the rural economy. Development plans should promote economic activity and diversification in all small towns and rural areas, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced. Developments which provide employment or community benefits should be encouraged, particularly where they involve the imaginative and sensitive re-use of previously used land and buildings. Planning authorities should also support and promote opportunities for environmental enhancement and regeneration in rural areas, particularly areas of previous mining and industrial activity.

94. The requirement for development plans to allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas. Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. Opportunities to replace rundown housing and steadings, and to provide limited new housing along with converted rehabilitated buildings, should be supported where the new development is designed to fit in the landscape setting and will result a cohesive grouping. Modernisation and steading conversion should not be constrained within the original footprint or height limit unless there are compelling design or conservation reasons for doing so.

95. The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses. In more accessible and densely populated rural areas most new development should be in or adjacent to settlements. In less populated areas, small scale housing and other development which supports diversification and other opportunities for sustainable economic growth whilst respecting and protecting the natural and cultural heritage should be supported in a range of locations. In these areas, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.

96. It is essential that rural communities have reasonable access to good quality services. Major facilities are usually concentrated in larger settlements, and wherever possible they should be accessible by a range of transport modes including public transport. However, planning authorities should be realistic about the availability or likely availability of alternatives to access by car as not all locations, particularly in remoter areas, can be served by public transport.

## LANDSCAPE AND NATURAL HERITAGE

125. Scotland's landscape and natural heritage are internationally renowned and important, underpinning significant industries such as the food, drink and tourism industries, and are a key component of the high environmental quality which makes Scotland an attractive place in which to live, do business and invest. Improving the natural environment and the sustainable use and enjoyment of it is one of the Government's national outcomes. Planning authorities should therefore support opportunities for enjoyment and understanding of the natural heritage[18].

126. Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. A strategic approach to natural heritage in which wildlife sites and corridors, landscape features, watercourses, and areas of open space are linked together in integrated habitat networks can make an important contribution to the maintenance and enhancement of biodiversity and to allowing ecosystems and natural processes to adapt and respond to changes in the climate. Planning authorities should seek to prevent further fragmentation or isolation of habitats and identify opportunities to restore links which have been broken. Where possible, planning authorities should seek benefits for species and habitats from new development including the restoration of degraded habitats.

127. Landscape in both the countryside and urban areas is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. The European Landscape Convention defines landscape as an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors, and makes it clear that all landscapes require consideration and care. Different landscapes will have a different capacity to accommodate new development, and the siting and design of development should be informed by local landscape character. The natural and cultural components of the landscape should be considered together, and opportunities for enhancement or restoration of degraded landscapes, particularly those affecting communities, should be promoted through the development plan where relevant.

128. The most sensitive landscapes may have little or no capacity to accept new development. Areas of wild land character in some of Scotland's remoter upland, mountain and coastal areas are very sensitive to any form of development or intrusive human activity and planning authorities should safeguard the character of these areas in the development plan.

129. All public bodies, including planning authorities, have a duty to further the conservation of biodiversity under the Nature Conservation (Scotland) Act 2004, and this should be reflected in development plans and development management decisions. Biodiversity is important because it provides natural services and products that we rely on, is an important element of sustainable development and makes an essential contribution to Scotland's economy and cultural heritage.

130. Linking greenspaces in and around settlements through green networks can deliver benefits for people and nature. By encouraging connectivity between habitats, green networks can improve the viability of species and the health and viability of previously isolated habitats and ecosystems, supporting adaptation to climate change. Development plans should identify and promote green networks where this will add value to the provision, protection, enhancement and connectivity of open space and habitats in the city regions and in and around other towns and cities. Lochs, ponds, watercourses and wetlands also form valuable landscape features, recreational resources and wildlife habitats and should be protected and enhanced wherever possible both as part of developments and green networks.

131. Landscapes and the natural heritage are sensitive to inappropriate development and planning authorities should ensure that potential effects, including the cumulative effect of incremental

[18] The natural heritage of Scotland includes flora, fauna, geological and physiographical features, its natural beauty and its amenity (Natural Heritage (Scotland) Act 1991)

changes, are considered when preparing development plans and deciding planning applications. While the protection of the landscape and natural heritage may sometimes impose constraints on development, with careful planning and design the potential for conflict can be minimised and the potential for enhancement maximised. However there will be occasions where the sensitivity of the site or the nature or scale of the proposed development is such that the development should not be permitted. Statutory natural heritage designations are important considerations where they are directly or indirectly affected by a development proposal. However, designation does not necessarily imply a prohibition on development.

132. Planning authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence for believing that significant irreversible damage could occur. Where the precautionary principle is justified, modifications to the proposal which would eliminate the risk of irreversible damage should be considered. The precautionary principle should not be used to impede development unnecessarily. Where development is constrained on the grounds of uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

133. The disturbance of some soils, particularly peat, may lead to the release of stored carbon, contributing to greenhouse gas emissions. Where peat and other carbon rich soils are present, applicants should assess the likely effects associated with any development work.

**International Designations**

134. Sites classified as Special Protection Areas (SPA) under the Birds Directive[19] and designated as Special Areas of Conservation (SAC) under the Habitats Directive[20] form an EU-wide network of protected areas known as Natura 2000. Any development plan or development proposal which is likely to have a significant effect on a Natura site and is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment by the planning authority of the implications for the site's conservation objectives. Development which could have a significant effect on a Natura site can only be permitted where:

- an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or
- there are no alternative solutions, and
- there are imperative reasons of overriding public interest, including those of a social or economic nature.

135. Where, in the absence of any alternatives, an authority proposes to approve a plan or project which could adversely affect the integrity of a Natura site for reasons of overriding public interest, Scottish Ministers must be notified and compensatory measures necessary to ensure the overall coherence of the Natura network is protected must be provided. For plans or projects affecting a Natura site where a priority habitat or species (as defined in Article 1 of the Habitats Directive) would be affected, prior consultation with the European Commission via Scottish Ministers is required unless the proposal is necessary for public health or safety reasons or will have beneficial consequences of primary importance to the environment. The Scottish Government accords the same level of protection to proposed SACs and SPAs which have been approved by Scottish Ministers for formal consultation.

136. Ramsar sites are wetlands designated under the Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat. All Ramsar sites are also Natura sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

19 Directive 79/409/EEC on the conservation of wild birds
20 Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

**TCP/11/16(197)**
**Planning Application 11/01373/FLL – Erection of 3 dwellinghouses on land 300 metres east of Kingswell, Kinfauns**

**PLANNING DECISION NOTICE (included in applicant's submission, see pages 83-84)**

**REPORT OF HANDLING (included in applicant's submission, see pages 85-92)**

**REFERENCE DOCUMENTS (included in applicant's submission, see pages 34-35 and 43-78)**

**TCP/11/16(197)**
**Planning Application 11/01373/FLL – Erection of 3 dwellinghouses on land 300 metres east of Kingswell, Kinfauns**

## REPRESENTATIONS

- Objection from Mr and Mrs Borland, dated 9 September 2011
- Representation from Education and Children's Services, dated 12 September 2011
- Objection from Graham Forbes, dated 12 September 2011
- Representation from Waste Services, dated 15 September 2011
- Objection from Bridgend, Gannochy and Kinnoull Community Council, dated 15 September 2011
- Objection from Mr and Mrs Pearson, dated 15 September 2011
- Representation from Area Land Agent Mid Scotland, dated 19 September 2011
- Objection from David Bett, dated 20 September 2011
- Objection from Mr and Mrs Waugh, dated 20 September 2011
- Objection from Ms A Calder, dated 21 September 2011
- Objection from Malcolm Wood, dated 21 September 2011
- Objection from Mr and Mrs Rowley, dated 22 September 2011
- Objection from Mr Peter Cruickshanks, dated 22 September 2011
- Objection from Judith Grant, dated 23 September 2011
- Objection from Stewart Hay, dated 23 September 2011
- Representation from Environmental Health Manager, dated 26 September 2011
- Objection from William Kay, dated 27 September 2011

- Representation from Transport Planning, dated 16 December 2011
- Representation from Bridgend, Gannochy and Kinnoull Community Council, dated 16 July 2012
- Representation from a group of 11 Interested Parties, dated 17 July 2012
- Agent’s response to representations, dated 3 August 2012

A Baxter.

13 SEP 2011

RECEIVED

12 SEP 2011

David Little
Head of Service
Planning & Regeneration
Pullar House
35, Kinnoull Street,
PERTH
PH1 5GD

Beechwood
Upper Muirhall Road
Kinfauns
PERTH
PH27LL

9th September2011

Dear Sir,

PlanningApplications 11/10373 and 11/01399

As owners/occupiers of Beechwood , our primary concern with the proposed developement of 4 Houses, is the Water Supply, and how it will affect our Property.

The Water supply comes from the new underground reservoir at Muirhall Farm, and is then pumped up to a holding Tank in Deuchny Wood, and in the recent past we have experienced repeated breaks in supply, owing to the holding tank running dry.

It can take up to 12 Hours approx. to refill , and then re pressurise the supply to the house.

We therefore seek assurances that this proposed development will not impede negatively on our supply, and trust therefore the water supply will be investigated thoroughly.

Yours sincerely,

[redacted]

Mr.B. & Mrs.J. Borland

# M e m o r a n d u m

| | | | |
|---|---|---|---|
| To | Nick Brian<br>Development Quality Manager | From | Gillian Reeves<br>Assistant Asset Management Officer |
| Your ref | 11/01373/FLL | Our ref | GR |
| Date | 12 September 2011 | Tel No | (4) 76395 |

**Education & Children's Services** **Pullar House, 35 Kinnoull Street, Perth PH1 5GD**

**Planning Application Ref No 11/01373/FLL**

This development falls within the Kinnoull Primary School catchment area.

Based on current information this school will reach the 80% capacity threshold.

| | |
|---|---|
| Approved capacity | 192 |
| Highest projected 7 year roll | 199 |
| Potential additional children from this and previously approved/yet to be determined applications | 29.97 |
| Possible roll | 228.97 |
| Potential % capacity | 119% |

Therefore I request that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.

Please do not hesitate to contact me should you require any further information.

*Support Services is committed to providing a high level of customer service designed to meet the needs and expectations of all who may come into contact with us. Should you have any comments or suggestions you feel may improve or enhance this service, please contact ecssupportservices@pkc.gov.uk*

**Lynsey Black** AMB

**From:** Graham Forbes [[redacted]
**Sent:** 12 September 2011 17:32
**To:** Development Management - Generic Email Account
**Subject:** 11/01399/FLL and **11/01373/FLL**

Hello

I would like to object to the 2 above planning notices for Muirhalll Rd, near Duecany woods. We leave further along this road (PH2 7LJ).

if these properties are built I feel they would have a impact on the views from Kinoull Hill and Duecany Woods. Also the road is already very dangerous and adding more traffic would not help.

regards

Graham Forbes

SCANNED IN COMPUTER
12 SEP 2011

# Memorandum

| | |
|---|---|
| **To** Development Management<br><br>**Cc**<br><br>**Date** 15/09/11 | **From** Waste Services<br><br>**Our Ref** DPA<br><br>**Tel No** 01738 476476 |
| **Environment Services** | **Pullar House, Kinnoull Street,Perth, PH1 5GD** |

**Consultation on an Application for Planning Permission:**

I refer to the above planning application and would like to discuss with either yourself, the architect, the developer or a representative an amendment to the plans to incorporate appropriate provision for storage of waste and recycling facilities and access for service provision.

If the developer does not adhere to the below specifications, the Council may be unable to provide waste and recycling services to this development based on inadequate storage, access and/or infrastructure.

Please contact Donna Paterson, Community Waste Adviser to discuss the above.

## Conditions for Planning Consent

### 1. Requirements for Bin Provision

1.1 Domestic Properties Serviced by the 3 Bin System

All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

*Bin Dimensions*

| Capacity (litres) | Width(mm) | Height (mm) | Depth (mm) |
|---|---|---|---|
| 240 | 580 | 1100 | 740 |

1.2 Flatted Properties

All flatted properties require a communal area to store one of the following bin options:

- 2 x 240 litre bins (one for general waste and one for dry mixed recycling)
- 1 x 240 litre bin for garden and food waste (where appropriate)
- a combination of larger bins to equate the same capacity as above

*Bin Dimensions*

| Capacity (litres) | Width (mm) | Height (mm) | Depth (mm) |
|---|---|---|---|
| 240 | 580 | 1100 | 740 |
| 1100 | 1270 | 1380 | 1000 |
| 1280 | 1280 | 1445 | 1000 |

It is preferable for residents (where space allows) to have their own individual 240 litre bins rather than using communal facilities.

1.3 Domestic Properties in Rural Area's

Council policy states that refuse collection vehicles will only provide kerbside refuse and recycling collections to properties situated on a private road if all of the following conditions are met :

1. the private road serves a settlement, or settlements, rather than sporadic individual properties (as a guide, a settlement is a grouping of six or more properties);
2. there is sufficient turning space for a refuse collection vehicle at the road end (i.e. a turning circle, t-junction or hammerhead), or if the vehicle can enter/exit the road by other safe means (as specified in point 3 below);
3. the condition of the road surface is acceptable for a refuse collection vehicle to access (as specified in point 4 below);
4. sufficient and safe access for the refuse collection vehicle is maintained - i.e. absence of overhanging branches / over grown bushes acceptable surface condition etc. (as specified in point 2 below)

5. the owner of the private road agrees to indemnify the Council (through a signed waiver) against any damage caused from reasonable use of the road by a refuse collection vehicle;
6. any bridges or other structures along the private road are certified by a competent person to be safe and meet Perth and Kinross Council health and safety requirements. It is the responsibility of the owner(s) of the road to demonstrate the safety of these structures;

If the properties can be accessed safely by service vehicles then condition 1.1 must be followed. If the properties cannot be accessed safely by service vehicles then provision must be made at the road end for the safe storage and servicing of the bin(s) in which case condition 1.2 must be followed.

## 2. Vehicle and Operative Access

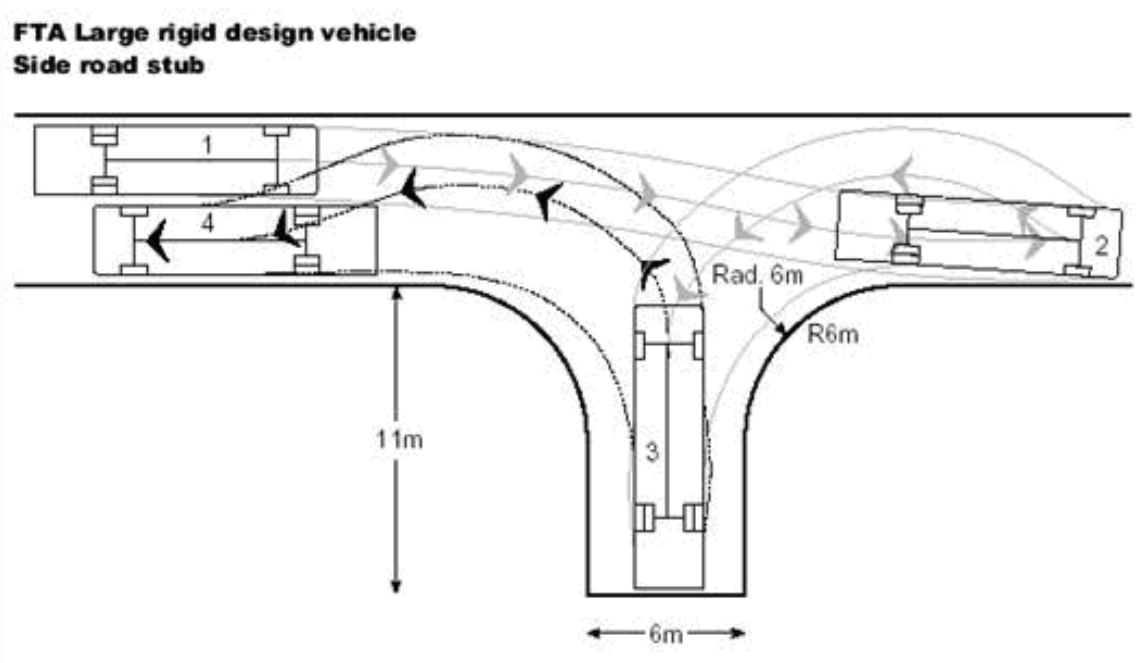
Access and egress

The following space requirements must be fulfilled for a refuse collection vehicle to service the site:

| | |
|---|---|
| Height | 4.5m |
| Width | 2.75m (including mirrors) |
| Length – for reversing and turning | 12 m |
| Length - for vehicle with container in emptying position | 13 m |
| Area required for operatives to stand clear of bin whilst being lifted | 3 m length x 3.5m width |

## 3 Vehicle Turning Requirements

The turning circle (diameter) required for refuse collection vehicles is 24 meters.



## 4. Road Specifications

All vehicle access roads that the refuse collection vehicles will be required to use must be adopted by the Council and constructed to withstand a gross vehicle weight of 26 tonnes and axle loading of 11.5 tonnes. Manhole covers, gratings, cattle grids etc situated in the road must also be capable of withstanding these loads.

The road and pavement from the bin collection point to the refuse collection vehicle must be at maximum 10 metres and a hard standing surface. It must have a level gradient and a smooth surface; use dropped kerbs where appropriate.

## 5. Recycling Facilities

### 5.1 New Housing Schemes

For new housing developments of 50 houses or above, the developer (in conjunction with the area Community Waste Adviser) should incorporate a suitable location(s) for the provision of recycling facilities to compliment the existing kerbside recycling services offered in the area.

**Appendix 1**

Planning Advice Note 63 indicates that developers should be encouraged to provide space in their proposed developments to accommodate provision within the premises for facilities to separate and store different types of waste at source. The Scottish Government considers that there may be greater scope to promote waste prevention and recycling during both the construction phase and the lifetime of the new development.

This Planning Review Process must be followed to ensure that all aspects of waste management are included before planning consent is granted – this should include storage, access/egress and road specifications for both waste and recyclates.

Should planning consent be granted which does not meet the aforementioned conditions, Perth & Kinross Council Waste Services may be unable to provide a complete service.

**Bridgend, Gannochy & Kinnoull Community Council**
**Acting Chairman – Graham Fleming, 5 Ardchoille Park, Perth PH2 7TL**
**Secretary – Margaret Cairns, 14 Fernhill Road Perth PH2 7BE**

CUSTOMER SERVICE POINT
15 SEP 2011
RECEIVED

Andrew Baxter
Planning & Regeneration
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth PH1 5GD

RECEIVED
16 SEP 2011

15 September 2011

Dear Mr Baxter,

**Planning Application 11/01373/FLL**
**(Erection of 3 Dwelling Houses in Kinfauns)**

While in no way opposed to housing development *per se*, Bridgend, Gannochy & Kinnoull Community Council has a policy of objection to all incremental development on the east side of the Tay until such time as Perth & Kinross Council resolves the long-standing issues relating to the local road infrastructure. By infrastructure, we particularly refer to:

- the road system in Bridgend having reached its capacity;
- the restricted width of roads such as Lochie Brae, Bowerswell Road and Manse Road:
- the AQMA condition in Main Street.

As we have yet to receive a cogent explanation from the road planning section of Planning and Regeneration regarding "incremental" traffic, we wish to register our objection to the above-cited planning application for dwelling houses east of Kingswells, Muirhall Road.

In addition, we have severe concerns about this proposed development being in an AGLV location.

Yours faithfully,

[redacted]

Graham Fleming
Acting Chairman

1, Binn Farm Cottages
Muirhall Road,
Kinfauns,
PERTH.

15th September 2011

RECEIVED
20 SEP 2011
ENTERED IN COMPUTER
20 SEP 2011

Perth & Kinross Council
2, High Street,
PERTH
PH1 5PH

**Planning Applications – 11/01373/FLL and 11/01399/FLL**

I refer to the above-described applications, which relate to the property known as Kingswells, Kinfauns and hereby give formal notification of objection in relation to both matters.

1. The proposals represent a 57% increase in dwelling houses within an area adjacent to the Deuchney Woods, a popular tourist attraction due to the scenic vistas over the River Tay, enjoyed from the woods. The proposed development can only have an adverse effect upon such views. It will also, in our opinion adversely effect the view of the Kinnoull Hill area as seen from the lower valley.

2. The development accesses the unclassified public road between Corsie Hill and Balthayock and the increased volume of traffic resulting, will only add to a route which is already being used by more traffic than was envisaged, when it was created. This is particularly the case, when any incidents or roadworks occur on the nearby A-90.

3. The water supply for the area running from Kinnoull Hill to my location (the end of the coverage) is, to say the least, tenuous. It is a regular occurrence for residents to lose either pressure or in some cases total supply. This significant increase in demand can only spell more misery for those of use situated at the further reaches of the system.

The siting of this development is within an Area of Great Landscape Value and also adjacent to the Kinnoull Conservation Area. I can think of no pressing requirement for further housing within this area (i.e. no major employers etc), which could possibly justify the granting of planning permission. We feel that this is a sporadic development which is not in keeping with the aims and purposes of the AGLV, nor the ideals of the Conservation Area.

In considering these applications I would also cite the following decisions which have bearing on the matters;

The decision by Perth and Kinross Council to refuse planning permission to Edinmore Properties Ltd., for the erection of 4 houses on the lower slopes of Kinnoull Hill. This decision was based upon the visual impact of the houses within the AGLV and was later ratified by Mr. Donald Harris, the Scottish Government Reporter.

This was welcomed by Councillor Heather Stewart, who said;

"There would also have been major access problems which could have made locals' lives a misery, so it's absolutely the right decision"

Her comments, we believe, echo the objection we have raised at No. 2 above.

The decision by Perth and Kinross Council to refuse planning permission for the erection of 19 dwelling houses adjacent to St. Mary's Monastery, Kinnoull Hill. The Planning Officers of the council recommended such refusal on the basis that the development was "outwith the settlement boundary and within an area zoned as an area of great landscape value, and that it would fundamentally change the character and appearance of the area, which is an important visual and open space"

We therefore formally object to the proposed development, as it not only breaches the aims and purposes of the AGLV and Conservation Area, but also flies in the face of decisions made by Perth & Kinross Council as well as the Scottish Government.

Yours faithfully

[redacted]

Mr S and Mrs M Pearson

**Area Land Agent Mid Scotland (Neutral)**

## Comment submitted date: Mon 19 Sep 2011

In the event of any development being proposed within one and a half mature tree lengths of the legal boundary with the Scottish Ministers property (Forestry Commission Scotland woodlands) to the north of the proposed development FCS would wish to be consulted.

CUSTOMER SERVICE POINT
16 SEP 2011
RECEIVED

David Little Esq

Head of Service Planning and Regeneration

Puller House

35, Kinnoull Street

PERTH

PH1 5GD

Squirrelknowe Cottage

Balthayock

Kinfauns

PERTH

PH2 7LG

20th September 2011

Dear Sir,

**Objection to planning application 11/01373/FLL**

My objection to this application is on policy issues, namely Perth Area Local Plan 1995 (PALP) supplemented by the Housing in the Countryside Policy 2009 (HITCP).

Policy 32, which refers to housing in the countryside.

Policy 12, which refers to development within an Area of Great Landscape Value (AGLV).

Policy 32 (PALP) States: - It will offer support for new dwellings that extend existing building groups.

As these proposed buildings are more than 75 metres from any existing settlement, they do not meet the criteria under the heading relating to, development zones, building group, and could be classed as ribbon development, and would have an adverse effect on the Kinnoull Hill Area of Great Landscape Value, (AGLV).

Policy 12 (PLAP) States: - Should prohibit new build development within an Area of Great Landscape Value (AGLV) unless they are associated with operational needs.

Clearly these proposed properties are not for operational needs, only speculative and for financial gain.

It is the duty of the planning department to reject these applications as they do not meet the Perth Local Area Plan 1995 (PLAP), Housing in the countryside Policy2009 (HITCP), which are the only current plans.

Yours sincerely,

Mr David Bett.

The Steading
Muirhall Road,
Kinfauns,
Perth
PH2 7LJ

20th September 2011

Perth & Kinross Council
2, High Street,
PERTH
PH1 5PH

**Planning Applications – 11/01373/FLL and 11/01399/FLL**

We hereby give formal notification of objection in relation to both planning applications referred to above.

1. This development will add extra traffic to the unclassified public road between Corsie Hill and Balthayock . This road is also used by an excessive amount of traffic particularily those who are trying to avoid roadworks or other congestion on the A90.

2. These proposals represent an unwarranted increase in the number of dwelling houses within an area adjacent to the Deuchny Woods.

3. We are also extremely concerned about the water supply to our home. We frequently suffer from low water pressure and sometimes we lose all water supply. This can only be exacerbated by the additional load on the supply created by this development.

This proposed development is within an Area of Great Landscape Value and also adjacent to the Kinnoull Conservation Area. We cannot think of any justification in granting these planning applications. We feel that this is development is not in keeping with the aims and purposes of the AGLV, nor the ideals of the Conservation Area.

In common with our neighbours we would also cite the following decisions which have bearing on the matters;

The decision by Perth and Kinross Council to refuse planning permission to Edinmore Properties Ltd., for the erection of 4 houses on the lower slopes of Kinnoull Hill. This decision was based upon the visual impact of the houses within the AGLV and was later ratified by Mr. Donald Harris, the Scottish Government Reporter.

This was welcomed by Councillor Heather Stewart, who said;

"There would also have been major access problems which could have made locals' lives a misery, so it's absolutely the right decision"

Her comments, we believe, echo the objection we have raised at No. 1 above.

The decision by Perth and Kinross Council to refuse planning permission for the erection of 19 dwelling houses adjacent to St. Mary's Monastery, Kinnoull Hill. The Planning Officers of the council recommended such refusal on the basis that the development was "outwith the settlement boundary and within an area zoned as an area of great landscape value, and that it would fundamentally change the character and appearance of the area, which is an important visual and open space"

We therefore formally object to the proposed development..

Yours faithfully

Mr R and Mrs D Waugh

11/01373/FLL.

CUSTOMER SERVICE POINT
22 SEP 2011
RECEIVED

RECEIVED
23 SEP 2011

Windyedge,
Muirhall Road,
Perth,
PH2 7LL

21st September 2011

Nick Brian,
Head of Development Control,
The Environment service,
Perth and Kinross Council,
Pullar House,
Kinnoull Street
Perth PHI 5GD

23 SEP 2011

Dear Mr, Brian,

**Proposed Housing Developments at Kingswells, Muirhall Road, Kinfauns Road, Perth – Reference Numbers 11/01373/FLL and 11/01399/FLL**

I wish to object to the above applications which, together, propose the erection of four new houses at Kingswells in breach of the Council's existing planning policy. The breach occurs for the following reasons.

1. **Housing in the Countryside Policy (2009)**

   This policy does not, as the applicant claims, apply uniformly across the whole Perth & Kinross area. The policy document makes it perfectly clear in its Introduction that its relevance is "*subject to specific circumstances identified in Local Plans.....*" it then lists a series of nine "specific designations" where the Housing in the Countryside Policy must also comply with the relevant local plan policy guidance for these areas. One of these designations is "Areas of Great Landscape Value" within which, as will be explained below, *"there will be a presumption against new houses except on the basis of operational need"*. No operational need exists, or has been claimed, in either of the above applications.

   The operational need caveat in itself precludes all of the four houses proposed but the failure to comply with the Housing in the Countryside Policy is compounded by the following considerations:

   (i) Kingswells is not, as the applicant claims, a "Building Group" of the type referred to in Category 1 of the policy. The seven existing houses referred to have no cohesion of the type required for a group, no core and, with one exception, all the houses are strung out in an extended ribbon on the north side of Muirhall Road. The

policy specifically states: "*proposals which contribute towards ribbon development will not be supported*". The single house proposed under reference 11/01399/FLL clearly extends the existing line of houses westwards and is particularly reprehensible in terms of ribbon development since it is not even contiguous with the most westerly of the existing houses.

(ii) Another requirement for new houses in building groups is that "*they do not detract from both residential and visual amenity of the group.*" The three houses proposed under reference 11/01373/FLL are to be situated at a considerable elevation above the existing houses in an open landscape with the inevitable consequence that they would adversely affect the residential and visual amenity of the group. Although the illustrative sketches submitted in support of the application show generous peripheral planting within plots 2, 3 and 4, none of this exists at present and it will be a very long time before any proposed planting will have any mitigating effect on the otherwise stark insertion of three large houses and associated access road at the proposed elevation. The plots will also be a highly intrusive presence in external views towards this section of Muirhall Road which can be seen from large parts of the Tay Valley and Friarton Bridge. The sites are particularly prominent from the Rhynd Road. All of these viewpoints are themselves within the AGLV and it can therefore be said that approval of the proposal would have an entirely negative effect on that designation.

(iii) Although the policy does allow for houses "*which extend the group into definable sites formed by existing topography and or well established landscape features which will provide a suitable setting.*" the proposal is not such an extension but is, rather, a major (4.6 acres) "bite" into an elevated and highly visible part of the AGLV. The landscape containment implied by the sketches does not yet exist and is entirely contrived to provide a mitigating effect **in the future**. As already stated, it would take many years to provide the context envisaged by the policy.

2. **Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000)**

The local plan provides the statutory framework for determining these applications. The policy which is most relevant to the above applications is Policy 32 (page 20). It offers no comfort for the proposals since it clearly states:

> "*The District Council's District wide policy on Housing in the Countryside will apply within most of the landward area. Within Areas of Great Landscape Value, the National Scenic Area and the Historic Gardens and Designed Landscapes there will be a presumption against new houses except on the basis of operational need, but encouragement will be*

*given to the restoration and conversion of buildings to form new houses."*

Annex 1 in the local plan sets out in the Housing in the Countryside Policy as it existed in May 1994 and, while the detail contained there has been superseded by the 2009 policy referred to above, the wording – particularly in relation to Building Groups – is very similar. Unlike the 2009 policy, the local plan version sets out in Annex 1 illustrations for guidance on how to identify a Building Group and it is clear, by comparison, that Kingswells would not satisfy the definition of a Building Group contained in the local plan.

3. **Local Development Plan Main Issues Report (September 2010)**

Work is currently underway to produce a new Local Development Plan. When adopted, this will provide a new statutory content for the whole Perth & Kinross area and the contents of the Main Issues Report, which was published in September 2010, are material considerations of relevance to the above applications. The relevant section lies in paragraphs 5.2.8 to paragraph 5.2.9 which contains proposals for a Greenbelt around the city as a replacement for the existing AGLV designation. It can been seen from MAP 1 in that document that Kingswells lies well within the proposed Greenbelt boundary and that the accompanying guidance states:

*"Greenbelt policy should be robust and as an example it is proposed to limit housing in the countryside to conversions or replacement buildings, excluding infill and Brownfield development categories. Any small settlements within the greenbelt will have settlement boundaries drawn to limit development opportunities."*

None of the proposed houses would be located on an infill or Brownfield site and they would therefore be prejudicial to the aims of the emerging plan.

**Other Considerations**

I have very grave concerns regarding the effects of such a development on the local wildlife. This area supports a wide range of birds and animals. These include protected species such as owls, roe deer, red squirrels, badgers, toads and bats. The areas designated for building would compromise their welfare, removing or blocking off large sections of their habitats, territories, and natural routeways. For this reason, I believe that undertaking an Environmental Study of the area is vital.

I am also concerned regarding the potential increase in traffic, domestic and commercial, on the already busy, and narrow, country road.

In addition, water run-off from Kingswells ground already causes flooding of the public road. In winter, this results in extensive sections of treacherous ice. Further development of the area would result in even lower absorption rates.

**Summary**

The applications covered by this objection are clearly intended to defeat the established planning policies for the area. In the sense that none of the houses is justified on grounds of "operational need" they all fail the policy test for that reason alone. The failure is compounded by the fact that there is no compliance with the spirit, or letter, of local plan policies and supplementary guidance in terms of : protection of existing residential amenity, landscape conservation or the broader public interest in preventing creeping suburbanisation of a proposed Greenbelt.

I therefore request that both of these applications be refused on the grounds that they fail to comply with all of the Council's statutory polices and supplementary guidance in relation to new houses in the countryside.

Yours sincerely

Ms A Calder

11/01373/FLL.

RECEIVED

23 SEP 2011

Hilton,
Muirhall Road,
Perth,
PH2 7LL
21st September 2010

Nick Brian,
Head of Development Control,
The Environment service,
Perth and Kinross Council,
Pullar House,
Kinnoull Street
Perth PH! 5GD

Dear Mr. Brian,

**Proposed Housing Developments at Kingswells, Muirhall Road, Kinfauns Road, Perth – Reference Numbers 11/01373/FLL and 11/01399/FLL**

I wish to object to the above applications which, together, propose the erection of four new houses at Kingswells in breach of the Council's existing planning policy. The breach occurs for the following reasons.

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   The operational need caveat in itself precludes all of the four houses proposed but the failure to comply with the Housing in the Countryside Policy is compounded by the following considerations:

   (i) Kingswells is not, as the applicant claims, a "Building Group" of the type referred to in Category 1 of the policy. The seven existing houses referred to have no cohesion of the type required for a group, no core and, with one exception, all the houses are strung out in an extended ribbon on the north side of Muirhall Road. The policy specifically states: "*proposals which contribute towards*

*ribbon development will not be supported".* The single house proposed under reference 11/01399/FLL clearly extends the existing line of houses westwards and is particularly reprehensible in terms of ribbon development since it is not even contiguous with the most westerly of the existing houses.

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2. **Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000)**

The local plan provides the statutory framework for determining these applications. The policy which is most relevant to the above applications is Policy 32 (page 20). It offers no comfort for the proposals since it clearly states:

> "*The District Council's District wide policy on Housing in the Countryside will apply within most of the landward area. Within Areas of Great Landscape Value, the National Scenic Area and the Historic Gardens and Designed Landscapes there will be a presumption against new houses except on the basis of operational need, but encouragement will be given to the restoration and conversion of buildings to form*

*new houses."*

Annex 1 in the local plan sets out in the Housing in the Countryside Policy as it existed in May 1994 and, while the detail contained there has been superseded by the 2009 policy referred to above, the wording – particularly in relation to Building Groups – is very similar. Unlike the 2009 policy, the local plan version sets out in Annex 1 illustrations for guidance on how to identify a Building Group and it is clear, by comparison, that Kingswell would not satisfy the definition of a Building Group contained in the local plan.

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Work is currently underway to produce a new Local Development Plan. When adopted, this will provide a new statutory content for the whole Perth & Kinross area and the contents of the Main Issues Report, which was published in September 2010, are material considerations of relevance to the above applications. The relevant section lies in paragraphs 5.2.8 to paragraph 5.2.9 which contains proposals for a Greenbelt around the city as a replacement for the existing AGLV designation. It can be seen from MAP 1 in that document that Kingswells lies well within the proposed Greenbelt boundary and that the accompanying guidance states:

> *"Greenbelt policy should be robust and as an example it is proposed to limit housing in the countryside to conversions or replacement buildings, excluding infill and Brownfield development categories. Any small settlements within the greenbelt will have settlement boundaries drawn to limit development opportunities."*

None of the proposed houses would be located on an infill or Brownfield site and they would therefore be prejudicial to the aims of the emerging plan.

**Other Considerations**

My neighbours and I have serious concerns about the ability of the land in the vicinity of the application sites to absorb surface water. In wet weather, Muirhall Road becomes a watercourse and the construction of roads, drives and hard surfaced areas will reduce the capacity of land in the immediate vicinity to absorb natural run-off. In severe conditions this has in the past led to flows of surface water across my land which adjoins plots 3 and 4.Historically, surface water has evolved from a spring roughly at the southern edge of plots 3 and 4. At considerable effort and expense I installed subterranean drains to resolve this issue and for the past several years those drains have worked well and have rarely been overwhelmed.

**Summary**

The applications covered by this objection are clearly intended to defeat the established planning policies for the area. In the sense that none of the houses is justified on grounds of "operational need" they all fail the policy test for that reason alone. The failure is compounded by the fact that there is no compliance with the spirit, or letter, of local plan policies and supplementary guidance in terms of : protection of existing residential amenity, landscape conservation or the broader public interest in preventing creeping suburbanisation of a proposed Greenbelt.

I therefore request that both of these applications be refused on the grounds that they fail to comply with all of the Council's statutory policies and supplementary guidance in relation to new houses in the countryside.

Yours sincerely

Malcolm B. Wood

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23 SEP 2011

ENTERED IN COMPUTER
23 SEP 2011

CUSTOMER SERVICE POINT
22 SEP 2011
RECEIVED

Nick Brian Esq
Development Quality Manager
Perth & Kinross Council
Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Mr G P & Mrs E M Rowley
The Neuk
Muirhall Road
Kinfauns
PERTH
PH2 7LL

22nd September 2011

Dear Mr Brian

We write to object to the proposed **New Build Housing Developments at Kingswells, Muirhall Road, Perth. Planning Application References: 11/01373/FLL & 11/01399/FLL by Mr Nigel Lowe**

This application for the erection of four new houses is contrary to the Council's existing planning policy, key areas of which are:

1. **Housing in the Countryside Policy (2009)**

   This policy does not, as the applicant claims, apply uniformly across the whole Perth & Kinross area. The policy document makes it perfectly clear in its Introduction that its relevance is "*subject to specific circumstances identified in Local Plans……*" it then lists a series of nine "specific designations" where the Housing in the Countryside Policy must also comply with the relevant local plan policy guidance for these areas. One of these designations is **"Areas of Great Landscape Value"** within which, as will be explained below, *"there will be a presumption against new houses except on the basis of operational need"*. **No operational need exists**, or has been claimed, in either of the above applications.

   The operational need caveat in itself precludes all of the four houses proposed but the failure to comply with the Housing in the Countryside Policy is compounded by the following considerations:

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   (ii) Another requirement for new houses in building groups is that "*they do not detract from both residential and visual amenity of the group.*" The three houses proposed under reference 11/01373/FLL are to be situated at a considerable elevation above the existing houses in an open landscape with the inevitable consequence that they would adversely affect the residential and visual amenity of the group. Although the illustrative sketches

submitted in support of the application show generous peripheral planting within plots 2, 3 and 4, none of this exists at present and it will be a very long time before any proposed planting will have any mitigating effect on the otherwise stark insertion of three large houses and associated access road at the proposed elevation. The plots will also be a highly intrusive presence in external views towards this section of Muirhall Road which can be seen from large parts of the Tay Valley and Friarton Bridge. The sites are particularly prominent from the Rhynd Road. All of these viewpoints are themselves within the AGLV and it can therefore be said that approval of the proposal would have an entirely negative effect on that designation. See attached photos.

(iii) Although the policy does allow for houses "*which extend the group into definable sites formed by existing topography and or well established landscape features which will provide a suitable setting.*" the proposal is not such an extension but is, rather, a major (4.6 acres) "bite" into an elevated and highly visible part of the AGLV. The landscape containment implied by the sketches does not yet exist and is entirely contrived to provide a mitigating effect **in the future**. As already stated, it would take many years to provide the context envisaged by the policy.

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"*Greenbelt policy should be robust and as an example it is proposed to limit housing in the countryside to conversions or replacement buildings, excluding infill and Brownfield*

*development categories. Any small settlements within the greenbelt will have settlement boundaries drawn to limit development opportunities."*

None of the proposed houses would be located on an infill or Brownfield site and they would therefore be prejudicial to the aims of the emerging plan.

**Other Considerations**

**Proposed New Access Road** would run 3 metres from our property, this would have an enormous personal impact, causing loss of privacy and safety concerns.

**Drainage** would be a major concern as the gradient of the land naturally throws water towards our property. We have already taken professional advice and had extensive works done to contain this water and divert it into drains at great personal expense. Any septic tank soak away will follow this path which may lead to contamination of our land and well water and ditches. Furthermore, with the increase of hard standing surface areas, roofs and roads this will increase the flow rate of surface water run-off and may cause flooding to our property.

**Public Road** infrastructure would struggle to cope with any potential increase in traffic on an already busy country public road. This is a winding, narrow country road with several blind corners, which is becoming more dangerous to the detriment of walkers, joggers, cyclists on cycle route 77, horse riders and traffic safety. We have contacted the P & K Roads Dept on several occasions to report water run-off which comes down Kingswells drive and crosses the public road, in the winter this leads to ice build-up and becomes very dangerous to all road users.

**Wildlife Impact,** concerns that wildlife habitat would be destroyed, the loss of small bird nesting habitats established on the banking in the wild gorse bushes where the new access road has been proposed. This development would impact on the abundance of wildlife on Deuchny Hill; families of roe deer, buzzards, kestrels, owls, bats, toads, red squirrels etc which use the open spaces as a feeding ground. Several wildlife species affected are protected species in accordance with the PALP Policy 82 of the Wildlife and Countryside Act 1981 and a full ecological study should be conducted.

Deuchny Hill is an area of outstanding scenic qualities which we feel is important to the setting of Perth, any development would have a detrimental visual impact on this area. We therefore request that both of these applications be refused on the grounds that they fail to comply with all of the Council's statutory polices and supplementary guidance in relation to new houses in the countryside.

Yours sincerely

[redacted]

Mr G P & Mrs E M Rowley

FROM RHYND ROAD

FROM RHYND ROAD.

FROM KINNOULL HILL WOODLAND PARK.

FROM KINNOULL HILL WOODLAND PARK.

Mr Peter T C Cruickshanks
Tayview
Muirhall Road
Perth
PH2 7LL

2 3 SEP 2011

22 September 2011

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2 2 SEP 2011 15:17 EW
RECEIVED

Mr. A. Baxter
Planning & Regeneration
Pullar House
35, Kinnoull Street,
PERTH
PH15GD

Dear Sir

**Application: 11/01373/FLL**
**Address: Land 300 Metres East of Kingswell, Kinfauns PH2 7LL**
**Proposal: Erection of 3 dwellinghouses**

I have been given notice of the above application as an adjoining neighbour and I wish to object to the proposals on the following five grounds:

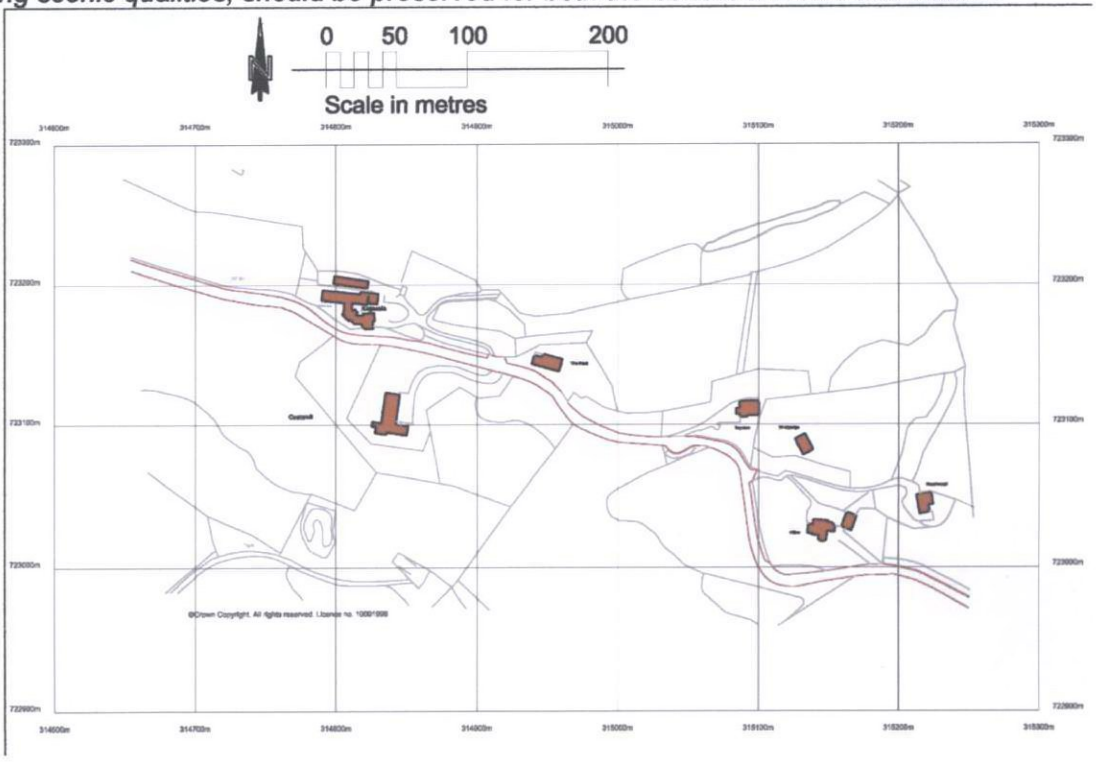
1. **Housing in the Countryside**

The development site does not comply with Policy 32 in the currently adopted Perth Area Local Plan (PALP) and will significantly detract from the character and amenity of the existing scattered housing.

*Policy 32: The Council's policy in housing in the countryside recognises that the open countryside of Perth and Kinross, and its outstanding scenic qualities, should be preserved for both the benefit of locals and visitors.*

a).
There are several dwellings in the Kingswell area but these are scattered and do not form an established settlement group with a compact shape and core.

The loose form of the existing buildings is demonstrated on the Ordnance Survey extract opposite



## 2. Area of Great Landscape Value

The development site is designated as an Area of Great Landscape Value (AGLV) and will breach Policy 12 in the currently adopted Perth Area Local Plan (PALP).

*POLICY 12: There will be presumption against built development within the AGLV, except for development necessary for "operational need"* At present, no operational need exists.

The landscaping proposal submitted with the application includes photographs which appear selective and do not accurately reflect the visual impact of the proposals on the AGLV. I attached further photographs (Appendix A) which more accurately demonstrate the prominence of the site when viewed from Kinnoull Hill, Rhynd Road on the south bank of the Tay and from the M90 at Friarton Bridge.

The proposed tree planting to the edges of Deuchny Wood will not mitigate the visual impact of three new dwellings in this dominant elevated position close to Kinnoull Hill.

## 3. Biodiversity

Development on this site will result in detrimental and permanent loss of wildlife habitat.

The following would be adversely affected by the proposals:

- Red squirrels in Deuchny Wood
- Toads (the site is a migratory route from the hills above Deuchny Wood to the lower Tay valley)
- Roe deer
- Bats
- Tawny owls
- Common buzzards (the site is used by buzzards for feeding and for training younger birds)
- Tadpole ponds (adjacent to proposed site entrance)

I would request that a detailed ecological survey is prepared and submitted to the Council prior to determination. Local residents should be consulted as part of this process.

## 4. Water & Drainage

My property (Tayview) is served by a private water supply which passes through the development site to a well adjacent to my house. The supply is fed by springs within the application site. I am concerned that the supply will be contaminated by building works, soakaway discharges, vehicle oil etc.

The existing public water supply is subject to low pressure and frequent breakages. I understand the supply pipework is asbestos.

Historically, there have been problems with water run-off from the development site discharging to my property and to my neighbour's property, The Neuk. Land drains have been installed to alleviate the problem however, should the development be approved, inevitable disturbances to the existing water course may cause recurring flooding.

At present the water run-off leaves the site immediately to the west of The Neuk and causes considerable flooding on the public road. Further development with hardstanding will exacerbate this problem.

5. **Access Road**

The development will lead to an increase in the number of private and commercial delivery vehicles using the single track access road from Perth. Furthermore, the access road forms part of the National Cycle Network.

I should be grateful if you would acknowledge this letter and take all my points into consideration before making any decision.

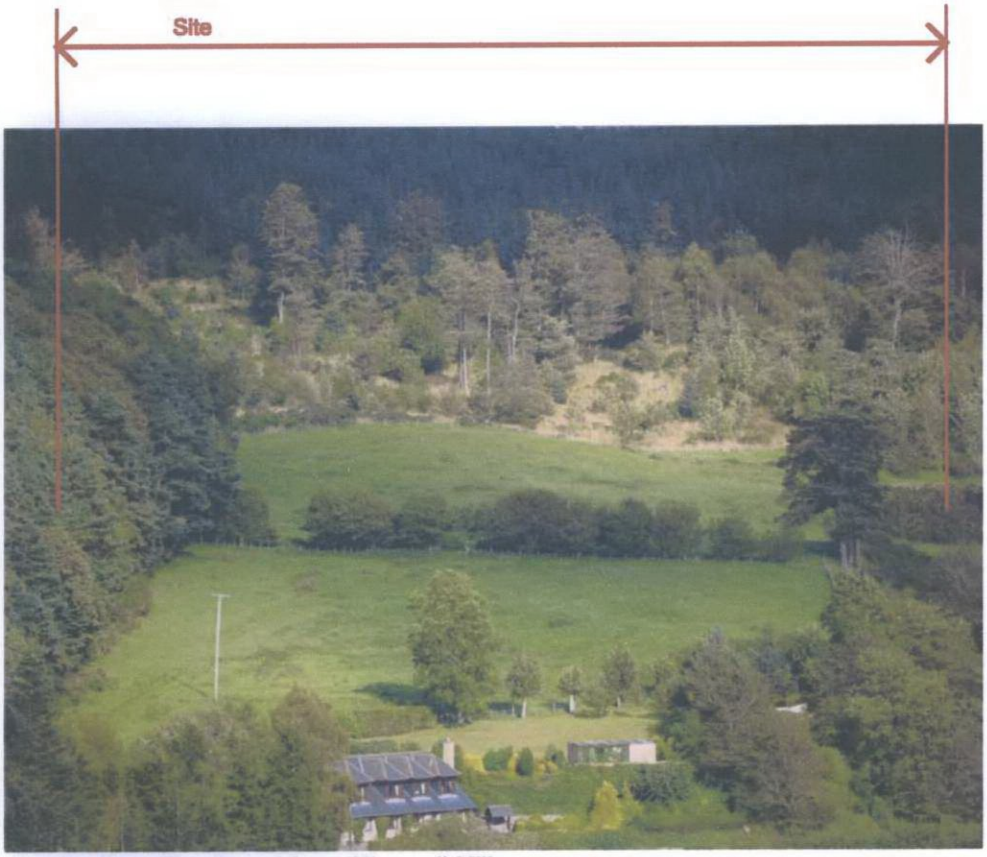
Yours faithfully

[redacted]

Mr. P. Cruickshanks

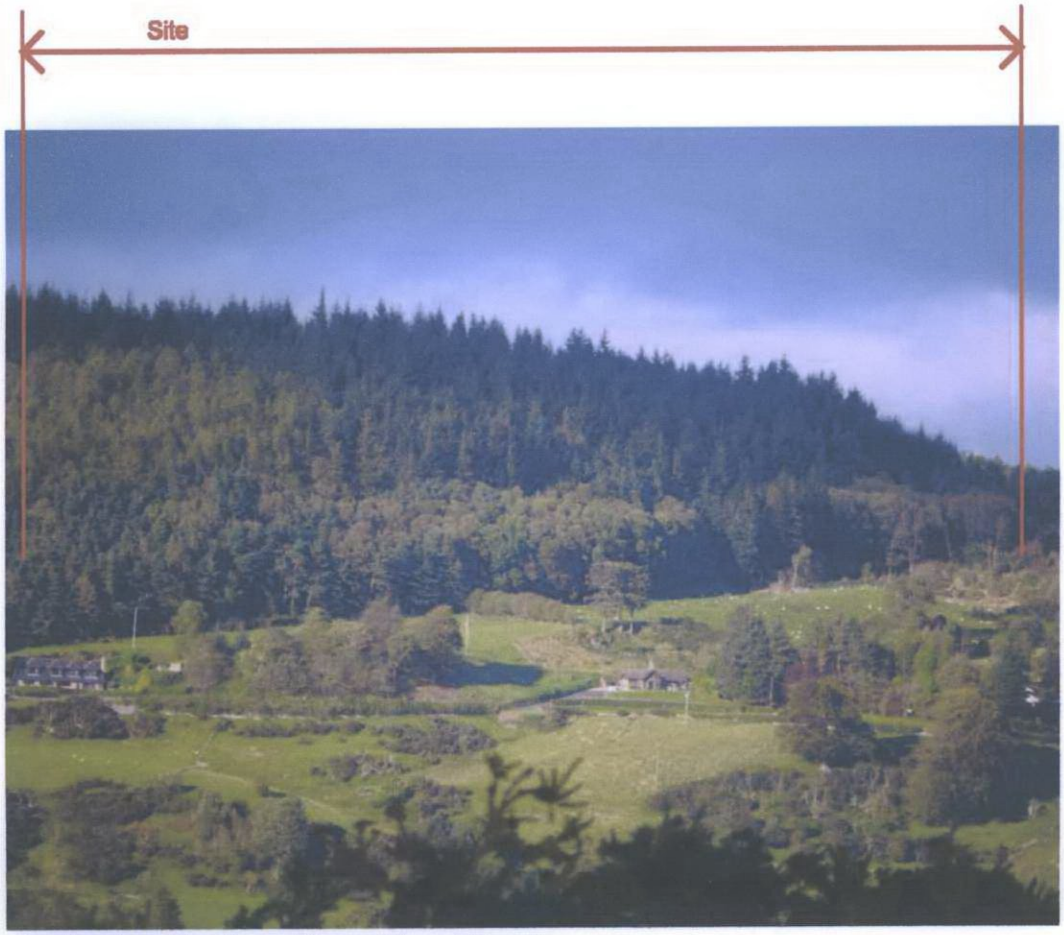
## Appendix A (photographs)

Application site viewed from M90 at Friarton Bridge




Application site viewed from Kinnoull Hill

Application site viewed from Rhynd Road




Application site viewed from Rhynd Road

**Linda Al-Ibrahimi**

**From:** JUDITH GRANT [redacted]
**Sent:** 23 September 2011 15:46
**To:** Development Management - Generic Email Account
**Subject:** Comments on Planning Applications 11/01373/FLL and 11/01399/FLL

Please find noted below my comments on the following planning applications which were recently submitted to Perth & Kinross Council: **Planning Applications 11/01373/FLL and 11/01399/FLL.**

---

Judith Grant
North Lodge
Muirhall Road
Perth

23 SEP 2011

23rd September 2011

Dear Sir

**RE: Planning Applications 11/01373/FLL and 11/01399/FLL, erection of a total of 4 dwelling houses on land adjacent to Kingswell, Muirhall Road, Perth**

I refer to the above planning applications submitted to Perth & Kinross Council and would like to make the following comments in respect of the proposed developments:

**Traffic and Road Safety**

- The net increase in traffic volumes on the public road which will provide access to the proposed new houses has been marked over the past few years, the impact of additional housing developments in the area (eg at Binn Farm) along with encouragement of the Perth public to use the local forestry commission for leisure pursuits/dog walking. This increase is likely to continue once the Murray Royal Hospital development is complete. Employees will no doubt seek to avoid the inevitable conjestion that will arise at Bridgend, using the public road as a shortcut to the A90 (this will especially be true of those who reside in the Dundee area). The public road is not suitable for such increase in traffic - it is barely wide enough for 2 cars, there are very few passing places, many blind bends, and the road receives little attention from the council in winter both in terms of snow clearance and gritting. This development will only add to this traffic problem of the area at peak times.

- The public road which is intended providing access to the new houses is heavily used by recreational users of the area as the road connects the many bridleways, paths and Public Right of Ways of Kinnoull Hill, Deuchny Wood, Binn Hill and Kinfauns. The road itself is a designated cycle route (Route 77). Road safety is already a significant concern particulary of the many horse riders who use the public road to exercise their horses. The road is narrow and twisty with many blind corners and traffic habitually speed on the road. Any increase in traffic on this road will increase the risk of injury to horse/rider. This concern will of course be heightened during any development period when machinery / materials are brought on site.

As a resident and recreational user of this area, it is for the above reasons that I would not be supportive of the proposed developments on the land adjacent to Kingswells.

Yours faithfully

Castlehill

Muirhall Road

Kinfauns

Perth

PH2 7LL

A Baxter.

RECEIVED

26 SEP 2011

23 ~~26~~ September 2011

ENTERED IN COMPUTER

26 SEP 2011

Mr Nick Brian

Development Quality Manager

Planning and Regeneration

Pullar House

35 Kinnoull Street

Perth PH1 5GD

CUSTOMER SERVICE POINT

23 SEP 2011

RECEIVED

Dear Sir

**Application Ref : 11/01399/FLL**

**Application Ref : 11/01373/FLL**

I have received your notices of the two applications listed above and wish to object to both.

Commenting on the "Supporting Statement" by RISTOL for Ref 11/01399/FLL which applies to both applications :

**Page 3, 2.0 The site**

The site for the single house is actually to the west of Kingswells, not the east. The description of Kingswells as a "FARMHOUSE", because "farm steading development" is in vogue, is mischievous to say the least. I have known the area for over 50 years and this has never been a farm. The previous owner kept a few stock to keep the grass down, as does the present owner – one bullock and two ponies. Now a grazier with sheep has access. This is similar to my two paddocks directly to the south. The house was originally for the Kinfauns Castle butler!

The site lies within a designated AGLV – agreed.

**Page 4, 3.0 The proposal**

All water from hardstandings and drainage must gravitate downhill and the present ditches and drainage channels do not cope at present and any addition would exceed the capacity of drainage through my property which is only field tiles. (Mr Andy Brown, Roads Department, can confirm the problems on this stretch of road over many years.)

**Page 4, 4.0 The planning context**

**(2)** Impact on AGLV – Policy 12 of PALP includes a "presumption against new houses in an AGLV except on the basis of "OPERATIONAL NEED". There is no operational need and none has been claimed.

The mention of Westcliffe, Kinfauns, as a new development within the AGLV is spurious. This was built on existing buildings. Westcliffe was originally the kennels for Kinfauns Castle. There also used to be a Mill worked from a pond and mill race on the site. This does not create a precedent.

In conclusion, should these applications be approved in any form, this would create a precedent to allow me to build houses in my two paddocks, east and west of Castlehill (map enclosed) and for Mr Geoff Brown (GS Brown Construction), the owner of Castle Farm, the opportunity of sites below the road opposite Tayview, Hilton and Beechwood, also from Castlehill west to The Lodge – all with suitable planting, of course!. The floodgates would be open!.

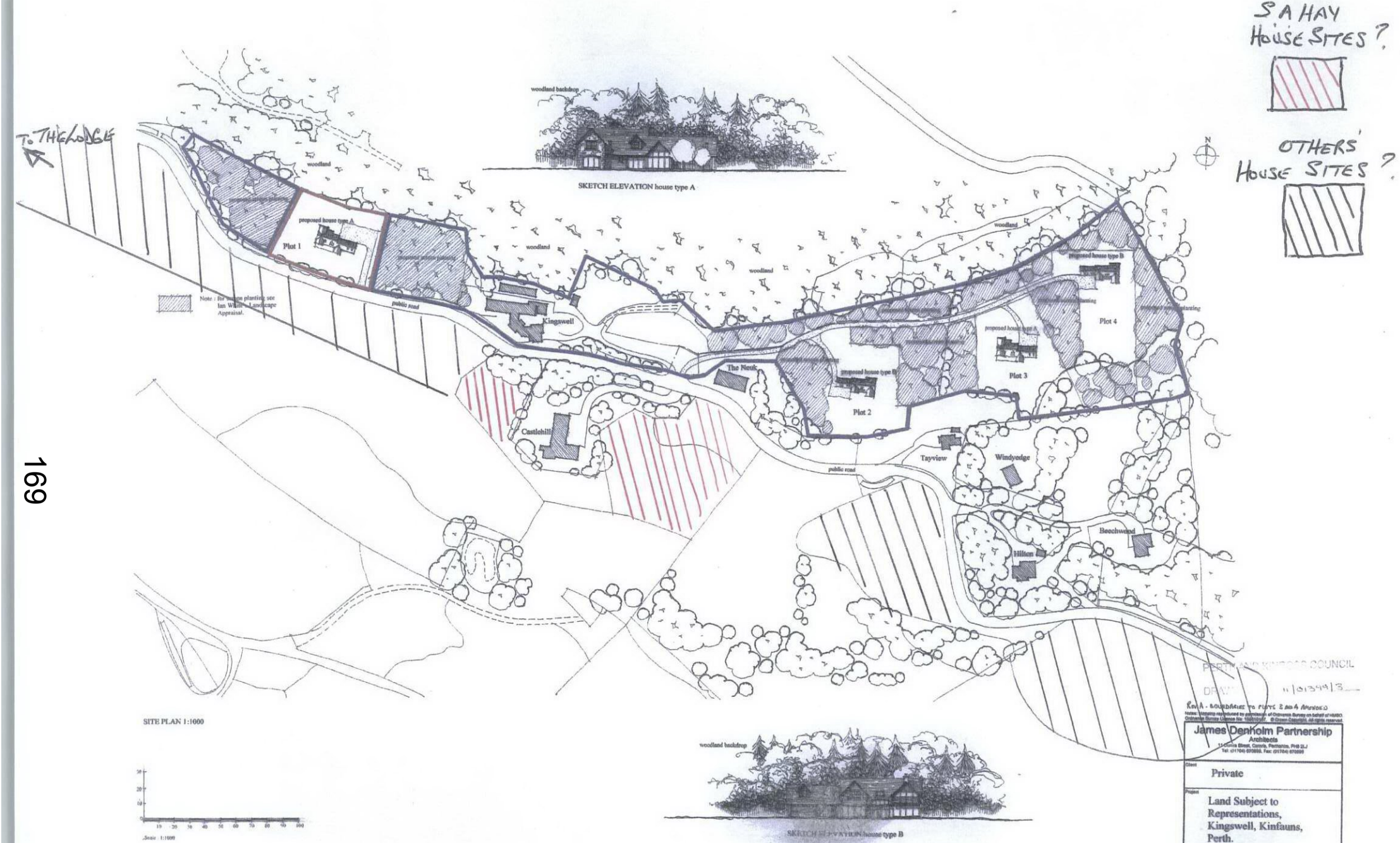
**AGLV – Policy 12** **NO OPERATIONAL NEED**

**NO PRECEDENT**

**NO APPROVAL.**

Yours faithfully [redacted]

Stewart A Hay


SA HAY HOUSE SITES ?
OTHERS' HOUSE SITES ?
TO THE LODGE
woodland backdrop
SKETCH ELEVATION house type A
woodland
proposed house type A
Plot 1
proposed house type B
Plot 4
Plot 3
Plot 2
Kingswell
The Neuk
Castlehill
Tayview
Windyedge
Beechwood
Hilton
public road
Note : for screen planting see Ian White Landscape Appraisal.
SITE PLAN 1:1000
Scale 1:1000
SKETCH ELEVATION house type B
PERTH AND KINROSS COUNCIL
DRAW 11/01349/3
KMA - BOUNDARIES TO PLOTS 2 AND 4 AMENDED
James Denholm Partnership
Architects
Client
Private
Project
Land Subject to Representations, Kingswell, Kinfauns, Perth.
Drawing
Proposed Site Plan
Scale 1:000
Drawn KK
Date Jan 11
Rev. Date 27/07/11
Job No. 3972
Dwg. No. P01
Rev. A

# M e m o r a n d u m

| | | | |
|---|---|---|---|
| To | Development Quality Manager | From | Environmental Health Manager |
| Your ref | PK/11/01373/FLL | Our ref | SG |
| Date | 26 September 2011 | Tel No | (01738) 476427 |

**The Environment Service** **Pullar House, 35 Kinnoull Street, Perth PH1 5GD**

**Consultation on an Application for Planning Permission**
**PK/11/01373/FLL: Erection of 3 dwellinghouses Land 300 Metres East Of Kingswells Kinfauns**

I refer to your letter dated 6 September 2011 in connection with the above application and have the following comments to make.

**Recommendation**
**I have no objections to the application but recommend the undernoted conditions be included in any given consent**

The applicant wishes to gain planning consent for a residential development at Muirhall Road, Kinfauns near Perth. The application site is an area of mixed farmland and residential use and is located on a steep south-west facing slope above two existing properties namely Tayview and The Neuk.

**Private Water Supplies**
Tayview is located south of the application area between Plot 2 and Plot 3. This property is served by Scottish Water mains water supply but also has a private water supply (named Tayview supply, PKC risk assessment number: 1160) which, according to the owner, has been kept as a contingency due to the often intermittent nature of the mains supply on past occasions. Lack of pressure is noted in a number of objection letters which have been submitted.

While the private water supply is not consistently used within the property for human consumption, it is piped to within the loft space of the property where the pipe is capped but ready for use as required.

On inspection by this service, the source of this water supply appears to emanate from the hillside approximately 40 metres west of Tayview, which is directly downslope of the proposed site of Plot 2. Of concern is that the intended location of the septic tank soakaway for Plot 2 appears to be directly above the likely source of the private water supply. Private water supplies are very vulnerable to contamination and the discharge of septic tank effluent is likely to pose a serious risk of contamination to the private supply in this case. Consumption of bacteriologically contaminated water is known to have the potential to cause adverse health effects.

**Drainage**
I am concerned that the proposed location of the septic tank soakaways for plots two and three may have a detrimental effect on the amenity of the existing properties namely Tayview and The Neuk. Following a site visit and studying maps and plans of the proposal I have noted the steep sloping nature of the area and apparent shallow soil profile and rocky nature of the areas geology. I am concerned the proposed development may lead to an increase in runoff of surface water as well as grey water from soakways which could result in future flooding and odour issues for the existing properties down slope of the application site.

I therefore have no objections to the proposed application however should you be minded to grant permission I believe it is necessary to impose the following conditions due to potential risks associated with the existing private water supply and the proposed drainage arrangements.

**Conditions**

1. The septic tank soakaways of each plot shall be designed and positioned in such a way that no effluent is able to enter the groundwater or surface water systems which feed or affect the source waters of the private water supply known as Tayview supply or any other private water supplies known to exist in the area.

2. The septic tank soakaways for each plot shall be designed and positioned in such a way that effluent entering the groundwater or surface water systems do not result in a loss of amenity for the existing properties located down slope of the application site.

3. The drainage arrangements for the proposed development shall be sufficiently robust to prevent flooding of the existing properties down slope.

**William Kay (Objects)**

## Comment submitted date: Tue 27 Sep 2011

? The proposed location of the three houses in the fields to the north of Tayview would be clearly visible to anyone using the Deuchney track and would therefore have a detrimental impact on the surrounding landscape.

? It does not meet any of the categories for New Houses in the open Countryside

? Both the building and occupation of new houses in this location would increase traffic on the Muirhall Road that extends to Balthayock, which is a narrow and winding road unsuited to taking additional traffic.

? The additional houses would place extra demands on our water supply which is already subject to pressure drops and outages.

? The proposal would set a precedent for speculative new build development in this AGLV which would be against both the spirit and letter of good planning policy.

PERTH & KINROSS COUNCIL

The Environment Service

# M E M O R A N D U M

| | | | |
|---|---|---|---|
| **To** | **Andrew Baxter**<br>**Planning Officer** | **From** | **Tony Maric**<br>**Transport Planning Officer**<br>**Transport Planning** |
| **Our ref:** | **TM** | **Tel No.** | **Ext 75329** |
| **Your ref:** | **11/01373/FLL** | **Date** | **16 December 2011** |

**Pullar House, 35 Kinnoull Street, Perth, PH1 5GD**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, - ROADS (SCOTLAND) ACT 1984**

With reference to the application 11/01373/FLL for planning consent for:- **Erection of 3 dwellinghouses Land 300 Metres East of Kingswells Kinfauns for Mr N Lowe**

Insofar as the Roads matters are concerned I note the comments from the objectors regarding the impact of increased traffic on the local road network. However, I am satisfied that the extra traffic generated by three houses will have a negligible effect on the local road network. Therefore, I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.

- Prior to the occupation or use of the approved development the vehicular access shall be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.

- Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.

- Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.

The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

I trust these comments are of assistance.

7888

TCP/11/16(197)

**Bridgend, Gannochy & Kinnoull Community Council**
www.bgk.org.uk
**Chairman – Graham Fleming, Secretary – Deirdre Beaton**
**c/o GO@L, 1 Bowerswell Road, Perth PH2 7DL**
bgkcc@hotmail.co.uk

CHIEF EXECUTIVES
DEMOCRATIC SERVICES
17 JUL 2012
RECEIVED

Gillian Taylor
Clerk to the Local Review Body
Perth & Kinross Council
2 High Street
Perth
PH1 5PH

16 July 2012

Dear Mrs. Taylor,

**Local Review Body: Application ref. 11/01373/FLL**

Thank you for your letter of 6 July 2012.

Bridgend, Gannochy & Kinnoull Community Council wishes to convey to the Local Review Body that it maintains strong objections to this proposed development on the following grounds:

1. the proposed development is contrary to policies 12 and 32 of the Perth Area Local Plan 1995 in that it would have a negative visual impact in an area designated as AGLV.
2. the road infrastructure on which this proposed development depends is currently inadequate to support the additional traffic which would result from such proposed developments, in that:
   a) the road system at Bridgend has currently reached its capacity, where the pollution caused by traffic congestion has created an AQMA;
   b) the roads providing access to the Kinnoull Hill area, viz. Lochie Brae, Manse Road and Bowerswell Road, are narrow, lacking adequate pavements and do not meet the UK specifications for urban access.

It should be noted, as documented in Clause 6 of the minutes of the Bridgend, Gannochy & Kinnoull Community Council meeting held on 15 September 2011, that many members of the public have urged the Community Council to support their objections to this proposed development, whereas no comments were received in support of it.

Yours faithfully,

[redacted]

Graham Fleming

7890

19 JUL 2012

19 JUL 2012

TCP/11/16(197)

Gillian A Taylor
Clerk to the Local Review Body
Perth & Kinross Council
2 High Street
PERTH
PH1 5PH

CHIEF EXECUTIVES
DEMOCRATIC SERVICES
20 JUL 2012
RECEIVED

17 July 2012

Dear Ms Taylor

**Town & Country Planning (Scotland) Act 1997**
**The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2008**
**Application Ref: 11/01373/FLL – Erection of 3 dwellinghouses on land 300 metres east of Kingswells, Muirhall Road, Kinfauns – Mr N Lowe**

**We,** as neighbouring proprietors to the proposed development, objected to this application when it was submitted in August 2011. Although it took longer than expected for a decision to be made, we were satisfied that (a) the issues raised by the proposal were fully and fairly appraised by planning officials as the Council's professional advisers, and, (b) the Council's Development Plan, supplementary guidance and "other material considerations" were correctly interpreted to require the refusal which was issued on 11th April 2012.

As the weight of valid argument against any or all of these houses is conclusive it is disappointing that the applicant has chosen to appeal but, as he has done so, we ask in response to your letter of 6th July, that the Local Review Board be presented with this letter recording our continued objection to the proposal. Having now read the appellant's Planning Statement dated 22nd June 2012, we also wish to make the following points of rebuttal.

**1.** This application lies within a belt of land which separates the City of Perth from the first ring of satellite villages, roughly on a 5 to 7 mile radius. All of the land in that belt is either attractive countryside in its own right or is important to the landscape setting of the city. Since the 1960s, successive councils have recognised that this area is under particular pressure from small, *ad hoc,* opportunistic, housing developments which, cumulatively, would "suburbanize" the countryside in a very negative way. The County Council, the District Council, the Regional Council and the current Perth and Kinross Council have therefore consistently picked this area out for special protection by designating it an Area of Great Landscape Value. Furthermore, the Main Issues Report for your new Local Plan has proposed that the AGLV designation be up-graded to Green Belt status. The decision to do so is indicative of the need to strengthen the protection offered to such a vulnerable area which is not, as the appellant seems to think, just another tract of Perthshire countryside. It is, in fact, the only proposed Green Belt in Perth and Kinross and occupies a tiny fraction of the 2,000 square mile administrative area.

**2.** The appellant claims that the proposal complies with your Housing in the Countryside policy 2009 on the grounds that the site forms part of a building group **but it does not,** for the following reasons.

(i) The policy does not, as the appellant assumes, apply uniformly across the whole Perth and Kinross area. The policy document makes it perfectly clear in its 'Introduction' that its relevance is *"subject to specific circumstances identified in Local Plans..."* It then lists a series of nine "specific designations" where the Housing in the Countryside Policy must also comply with the relevant local plan policy guidance for these areas. One of these designations is "Areas of Great Landscape Value" within which, as will be explained below, *"there will be a presumption against new houses except on grounds of operational need"*. **No operational need exists, or has been claimed, in this case.**

(ii) Kingswells is not, as the appellant claims, a "Building Group" of the type referred to in the policy. The seven existing houses referred to have no cohesion of the type required for a group, no core and, with one exception, all of the existing houses are strung out in an extended ribbon on the north side of Muirhall Road.

(iii) Another requirement for new houses in building groups is that *"they do not detract from both residential and visual amenity of the group"*. The three houses proposed are to be situated at a considerable elevation above the existing houses in an open landscape with the inevitable consequence that they would adversely affect the residential and visual amenity of the group. Although the illustrative sketches submitted in support of the application show generous peripheral planting within the proposed plots none of this exists at present and it will be a very long time before any proposed planting will have a mitigating effect. The plots will also be a highly intrusive presence in external views towards this section of Muirhall Road which can be seen from large parts of the Tay Valley and Friarton Bridge (See our Production 1). The sites are particularly prominent from the Rhynd Road which we encourage the Review Board to visit. All of these viewpoints are within the AGLV/ Green Belt and it can therefore be said that approval of the proposal will have an entirely negative effect on those designations.

(iv) Although the policy does allow for houses *"which extend the group into definable sites formed by existing topography and or well established landscape features which will provide a suitable setting"* the proposal is not such an extension. It is, rather, a major "bite" into an elevated and highly visible part of the AGLV/Green Belt. The landscape containment implied by the appellant's 'Productions' does not yet exist and is entirely contrived to provide a mitigating effect **some 10 to 20 years from now.** The claim in paragraph 2.3 of the Planning Statement that the proposal will have *"A significant positive effect on the landscape"* is simply preposterous.

**3.** The Perth Area Local Plan 1995 (as amended) provides the statutory framework for determining these proposals. The policy which is most relevant to the above applications is Policy 32 (page 20). It offers no comfort for the proposals since it clearly states:

> *"The District Council's District wide policy on Housing in the Countryside will apply within most of the landward area. Within Areas of Great Landscape Value, the National Scenic Area and the Historic Gardens and Designed Landscapes there will be a presumption against new houses except on the basis of operational need, but encouragement will be given to the restoration and conversion of buildings to form new houses."*

Annex 1 in the local plan sets out in the Housing in the Countryside Policy as it existed in May 1994 and, while the detail contained there has been superseded by the 2009 policy referred to above, the wording – particularly in relation to Building Groups – is very similar. Unlike the 2009 policy, the local plan version sets out illustrations for guidance on how to identify a Building Group and it is clear, by comparison, that Kingswells would not satisfy the definition of a Building Group contained in the local plan.

**4. Local Development Plan Main Issues Report (September 2010)**

Work is currently underway to produce a new Local Development Plan. When adopted, this will provide a new statutory content for the whole Perth & Kinross area. The contents of the Main Issues Report, which was published in September 2010, are material considerations of relevance to the above application. The relevant section lies in paragraphs 5.2.8 to 5.2.9 which contain proposals for a Green Belt around the City as a replacement for the existing AGLV designation. It can be seen from MAP 1 in that document that Kingswells lies well within the proposed Greenbelt boundary and that the accompanying guidance states:

> *"Greenbelt policy should be robust and as an example it is proposed to limit housing in the countryside to conversions or replacement buildings, excluding infill and Brownfield development categories. Any small settlements within the greenbelt will have settlement boundaries drawn to limit development opportunities."*

None of the proposed houses would be located on an infill or Brownfield site and they would therefore be prejudicial to the aims of the emerging plan.

**5.** Landscape impact assessment is largely a subjective matter but, as noted above, the appellant's own productions show that the sites for the proposed houses are currently devoid of trees and other natural landscape features. Furthermore, the woodlands which currently provide a backdrop to the proposed houses are entirely outwith the appellant's control and, within the foreseeable future, are likely to be harvested in the normal way for commercial woodland. They cannot therefore be the subject of protective conditions in any planning consent.

**6.** Mention is made (paragraph 1.3.3) of the fact that SNH did not object to the application. If more care had been taken in preparing the appeal document it would have been noticed that there was no possibility of SNH making any comment since they weren't consulted. They are not a statutory consultee in these circumstances and, presumably, the clear breach of policy – on locational grounds – made it unnecessary to involve them. In any case, the judgement in relation to landscape impact and other land use considerations was one for the Council to make.

**7.** Mention is made (paragraph 2.5) of a £19,185 commuted sum contribution arising from the development to the benefit of affordable housing. This, again, is a mistake since the sum in question arises from an education levy.

**8.** Highly selective extracts from *Scottish Planning Policy (SPP)* 2010 have been quoted (paragraph 2.6 and elsewhere) in support of the proposal but, when read more objectively, the SPP is of little assistance to the appellant's case. Firstly, the section of the SPP on rural development specifically points out that:

> "*The character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurized areas of countryside around towns and cities*"

AGLV's and Green Belts in the immediate hinterland of a city are clear examples of "pressured areas".

**9.** A number of alleged precedents are mentioned as justification for the proposal but none of these is, in any way, as flagrant a breach of policy as the appeal proposal. Indeed, we cannot see that they are a breach at all: for example, 11/00897/IPL at Over Kinfauns is a clear example of "infill" within a recognized hamlet and an established row of long-established houses. The fact that the appellant should seek to justify his own proposal by reference to others in the area is, however, a clear example of the planning dictum that "one man's consent is another man's precedent" and this tactic is proof, if proof were needed, that the Review Board should be particularly wary of departing from policy in "*a pressured area*".

Precedents, if they exist, can of course work both ways and we ask you to take particular note, as a "material consideration" of the fact that, in 1996 (Ref No. PK96/0026), your Council refused consent for a single house on a site that is in the immediate vicinity of the current proposal. The site of the 1996 application is, in fact, in a much less conspicuous and obtrusive location within the landscape than the one we are currently objecting to. We ask you to note that the refusal was based on all of the policy violations we have previously drawn to your attention namely:

- contrary to the Housing in the Countryside Policy ( because this is not a "building group")
- the site is within an AGLV and the proposal is not justified by an operational need
- adverse effect on the Kinfauns designed landscape

It is an established principle of planning practice that applications which raise similar issues in similar policy frameworks should have equal and consistent outcomes. If they do not, the planning system itself becomes discredited and exposed to subsequent pressure by the "me too" argument. The AGLV/Green Belt is particularly vulnerable to random, opportunistic, attempts to claim exemptions which, rightly, have been denied to others and, if tight control is not maintained in these circumstances, this precious landscape and recreational belt around the city will become "suburbanized" in a way that is incompatible with the Council's objectives. The appeal proposal will have precisely that effect.

**In Conclusion**

For the reasons given above and in the Delegated Report of Handling, we ask the Local Review Board to dismiss the appeal. The reasons for doing so are clear cut and we see no need for further delay or a hearing but, if one is to be held, we would wish to be represented by our own planning adviser. Either way, we think it is important that the Board visits the site to see for itself the full extent to which the proposal violates planning policy and the objectives of landscape conservation.

Yours sincerely

Name: PETER CRUICKSHANKS Signature: [redacted]

Address: TAYVIEW MUIRHALL ROAD
PERTH PH2 7LL

Name: MR & MRS G.P. ROWLEY Signature: [redacted]

Address: THE NEUK, MUIRHALL ROAD
KINFAUNS, PERTH. PH2 7LL

Name: MR. & MRS STEWART HAY Signature: [redacted]

Address: CASTLEHILL, KINFAUNS
PERTH PH2 7LL

Name: Mr · Mrs Waugh.

Address: The Steading
Upper Kinfauns
Perth PH2 7LJ.

Signature: [redacted]

Name: Mr + Mrs Forbes

Address: Binns Bothy
Kinfauns
Perth. PH2 7LJ

Signature: [redacted]

Name: MR + MRS PEARSON

Address: 1 BINN COTTAGES
KINFAUNS
PERTH PH2 7LJ

Signature: [redacted]

Name: Mrs D WOOD

Address: HILTON
MUIRHALL ROAD
PERTH PH2 7LL

Signature: [redacted]

Name: ANGELA CALDER

Address: WINDYEDGE
MUIRHALL ROAD
PERTH PH2 7LL

Signature: [redacted]

Name: Mr & Mrs Kay

Address: Binn farmhouse
Kinfauns
Perth PH2 7LJ

Signature: [redacted]

Name: B. BORLAND

Address: BERCHWOOD
Kinfauns PERTH PH2 7LL

Signature: [redacted]

Name: DAVID BETT

Signature: [redacted]

Address: SQUIRELKNOWE
COTTAGE
BALTHAYOCK
KINFAUNS
PERTH PH2 7LG

Perth
Coupar Angus
Blairgowrie
Braemar
A 85
½m
No hard
shoulder for
1 mile
Deeside
Tourist Route
to Aberdeen
Scone Palace

Ms G Taylor
Clerk to the Local Review Body
Perth & Kinross Council
2 High Street
Perth PH1 5PH

By email & post

CHIEF EXECUTIVES
DEMOCRATIC SERVICES
6 - AUG 2012
RECEIVED

Ristol Ltd
Touch Business Centre
Touch Estate
Cambusbarron
Stirling FK8 3AQ

OFFICE 01786 465 782
FAX 01786 471 438
EMAIL info@studioristol.com

studioristol.com

3rd August 2012

Dear Ms Taylor,

**Town & Country Planning (Scotland) Act 1997**
**Application 11/01373/FLL – Erection of 3 dwellinghouses on land some 300m east of Kingswells, Kinfauns – Mr N Lowe**
**Response to representations received dated 23rd July 2012**

Further to your letter of the 23rd July 2012 enclosing copies of representations submitted by the Bridgend, Gannochy & Kinoull Community Council dated 16th July 2012 and a combined neighbouring proprietors submission dated the 17th July 2012, I am instructed by the applicant to make further representations to the Local Review Board. These are contained in the accompanying Supplementary Statement dated 3rd August 2012 and I would request that this Supplementary Statement is exhibited to the Local Review Board.

Yours sincerely,

[redacted]

C Mark Richardson BSc (Hons) MRTPI
Director

encs

cc Mr N Lowe

**Registered office**
10 Albert Place
Stirling FK8 2QL

REGISTERED NO 321 813

# Planning Statement

RISTOL

**Ristol Ltd**
Touch Business Centre
Touch Estate
Cambusbarron
Stirling FK8 3AQ

**OFFICE** 01786 465 782
**FAX** 01786 471 438
**EMAIL** info@studioristol.com

**studioristol.com**

***Date:***
3rd August 2012

***Supplementary Statement:***
Application number 11/01373/FLL

The erection of three dwelling houses on land at 300 meters east of Kingswells, Kinfauns.

Applicant – Mr N Lowe, Kingswells, Kingswells.

Agent – Ristol Ltd, Touch Estate, Stirling.

Reference: Kingswells
Job Reference: 5000-03-47

# Contents

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Issued

Date: 3rd August 2012 Checked: Mark Richardson

Signature: [redacted]

Job Ref: 5000-03-47

## 1.0 Supplementary Statement

1.1 Following Perth & Kinross Council's decision to refuse planning application 11/01373/FLL on the 11th April 2012, the applicant applied for a review of the decision to the Local Review Board on the 22nd June 2012.

1.2 A Statement of the grounds for review was submitted to Perth & Kinross Council on the 22nd June 2012.

1.3 Following this submission, representations were made by Bridgend, Gannochy & Kinoull Community Council on the 16th July 2012 and a combined neighbouring proprietors was submitted on the 17th July 2012. In light of these submissions, Ristol Ltd are instructed by the applicant to make further representations to the Local Review Board, as provided for under the *Town & Country Planning (Schemes of Delegation and Local Review Procedures) (Scotland) Regulations 2008.*

1.4 The Statement of Grounds for Review dated 22nd June 2012 details the case for the applicant and are not repeated in this Supplementary Statement, which focuses on addressing planning matters raised in the above submissions. This is intended to assist the Local Review Board in its determination.

1.5 Bridgend, Gannochy & Kinoull Community Council raise two planning matters;

- that the planning application is contrary to policies 12 & 32 of the *Perth Area Local Plan* in that they contend it would have a negative visual impact on the Area of Great Landscape Value (AGLV)

- the road infrastructure is unable to support additional traffic.

1.6 As detailed in the Statement of Grounds for Review, sections 25 and 37 (2) of the *Town and Country Planning (Scotland) Act 1997 (as amended)* require the determination of planning applications to be made in accordance with the provisions of the development plan, unless other material considerations indicate otherwise. Policies 12 and 32 of the *Perth Area Local Plan (as amended) 2000* have been superseded through the publication of the *Scottish Planning Policy* which advocates a policy regime based on facilitating positive landscape change, whilst maintaining and enhancing distinctive character. This approach to policy implementation is evidenced in recent planning decisions made by the Council in support of residential development within the AGLV (11/00897/IPL). Both the *Scottish Planning Policy* and recent planning decisions are considered by the applicant to be material considerations that carry significant weight as provided for in Circular 4/2009 *Development Management Procedures (Annex A).*

1.7 The landscape and visual assessment accompanying the planning application and detailed in Appendix 5 of the Statement of Grounds for Review, concludes that the site is well contained by existing strong landscape features which could absorb the

proposed houses and the development would not have an adverse impact on the character and integrity of the AGLV.

1.8 In relation to road infrastructure, no objection was made by the Council's transport team during the determination of the application on the adequacy of the road network to accommodate the proposed development.

1.9 The combined neighbouring proprietors raise the following planning points:

- The site is within the AGLV
- The site does not conform with the Council's *Housing in the Countryside Policy 2009* on the grounds that it is not a "building group" as defined under the Council's *Housing in the Countryside Policy 2009*
- The emerging Local Development Plan identifies the site as falling within proposed green belt
- Landscape and visual impact
- Relevance of the precedents raised
- Developer contributions

1.10 The applicant accepts that the site is within the AGLV but as detailed in the Statement of Grounds for Review, material planning considerations of significant weight exist which establish that AGLV designations should not be viewed as a policy mechanism presuming against the principle of development.1.1.10. The planning application was preceded by a pre-application review with the Planning Officer, which included an accompanied site visit with the applicant's planning consultant and architect, the issue of concept drawings and subsequent written response. The Planning Officer's pre-application advice is found in Appendix 6.

1.11 The Council clearly state within the Pre Application Consultation (Appendix 6 Statement of Grounds for Review) and in the Report of Handling (Appendix 8 Statement of Grounds for Review), that the application sits within a defined building group, in accordance with the locational criteria contained within the Council's *Housing in the Countryside Policy 2009.*

1.12 As regards landscape and visual impact, Appendix 5 of the Statement of Grounds for Review details the landscape and visual assessment undertaken by a professional landscape practice, Ian White Associates. The conclusions are presented in para 1.7. We would draw to the Local Review Board's attention the landscape strategy and visual assessments (before & after) contained in the Landscape Appraisal (Appendix 5 Statement of Grounds for Review). This highlights how the proposed development fits into the landscape and through the woodland planting, enhances the character of the AGLV, in accordance with national planning policy. We note the photographs accompanying the neighbouring proprietor's submission and would be interested to learn when these were taken.

1.13 The neighbouring proprietors raise the issue of woodland adjoining the northern boundary of the site (Deuchny Wood) which in due course will be felled. It is the

applicants understanding that under the forestry plan this will need to be replanted. However, the proposed woodland planting incorporated into this application is in part intended to reinforce the existing woodland in order to protect the character of the area and plan for future felling at Deuchny Wood.

1.14 The emerging Local development has a draft status and the weight that can be afforded to it is minimal, as provided for in Circular 1/2009 *Development Planning*. In determining a recent planning application (ref 12/00078/FLM) the Council stated that "*Although approved by the Council as a Draft Plan, the LDP is at an early stage and public consultation has yet to be concluded. Whilst it is a material planning consideration, reflecting a more up to date view of the Council, it is acknowledged that only limited weight may be accorded to it in the consideration of this proposal.*"

1.15 In terms of precedents used, reference is made to planning application PK96/0026. The applicant highlights that this application was determined prior to the new policy framework established by the *Housing in the Countryside Policy* came into force in 2009.

1.16 The developer contribution of £19,185 has been raised and we correct the Statement of Grounds for Review to note that this significant sum is for improving local educational provision and not affordable housing.

1.17 We note the neighbouring proprietors do not object to the Local Review Board conducting this examination through a Hearing, and as such we would respectfully request that a Hearing is undertaken on the grounds that this would enable considered assessment of the landscape and visual issues raised.

1.18 It remains the applicant's position that this application accords with national and local planning policy and is an appropriately scaled and quality development that will make a positive contribution towards rural housing land requirements.

3rd August 2012
Ristol Ltd