

Perth and Kinross Council  
Planning & Development Management Committee – 28 August 2019  
Report of Handling by Head of Planning & Development (Report No. 19/235)

**PROPOSAL:** Erection of a replacement dwellinghouse

**LOCATION:** Site of former Briar Croft, Fearnan

Ref. No: [19/00975/FLL](#)  
Ward No: P4 - Highland

### **Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The application site is Briar Croft, Fearnan. The application seeks detailed planning permission for the erection of a replacement dwellinghouse. The site is located within the settlement boundary of Fearnan and within the Breadalbane Environmentally Sensitive Area and the Loch Tay Special Landscape Area.
- 2 The existing dwellinghouse is a detached 3 bedroomed bungalow with a small veranda on the principal elevation. The existing dwellinghouse is of a limited quality design with concrete roof tiles and off white render. The majority of the windows and doors are white uPVC units. The footprint of the building is approximately 131m<sup>2</sup>.
- 3 The proposed dwellinghouse is a detached 3 bedroomed 2 storey unit which will be built into the hillside utilising the topography of the site. The proposed dwellinghouse will therefore appear as a single storey unit when viewed from the north. The design of the unit is of a contemporary nature with a glass frontage. The materials will be a combination of zinc, glass, smooth white render and timber cladding. There will also be a small garden store linked by a covered car port. The footprint of the proposed dwellinghouse, excluding the roof overhang and covered car port, will be approximately 266m<sup>2</sup>.

## **PRE-APPLICATION CONSULTATION**

- 4 Pre-application Reference: 19/00266/PREAPP. A pre-application consultation was undertaken for a similar scheme to that under consideration where it was identified that the principle of the development was acceptable and the design of the proposed scheme was considered suitable for the site.

## **NATIONAL POLICY AND GUIDANCE**

- 5 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### **National Planning Framework**

- 6 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

### **Scottish Planning Policy 2014**

- 7 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
- 8 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35
  - Placemaking : paragraphs 36 – 57

### **Planning Advice Notes**

- 9 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
  - PAN 68 Design Statements

### **Creating Places 2013**

- 10 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant

communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

### **National Roads Development Guide 2014**

- 11 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

### **DEVELOPMENT PLAN**

- 12 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2016-2036**

- 13 TAYplan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

*“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*

- 14 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application:

- Policy 1: Location Priorities
- Policy 2: Shaping Better Quality Places
- Policy 4: Homes
- Policy 6: Developer Contributions
- Policy 9: Managing TAYplan's Assets

### **Perth and Kinross Local Development Plan 2014**

The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 15 The principal relevant policies are, in summary;

Policy PM1A & B- Placemaking  
Policy PM3 - Infrastructure Contributions  
Policy RD1 - Residential Areas  
Policy TA1B - Transport Standards and Accessibility Requirements

Policy NE3 - Biodiversity

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 16 The Proposed LDP2 2017 represents Perth & Kinross Council's settled view in relation to land use planning and is a material consideration in determining planning applications. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. It is now the subject of an Examination Report (published 11 July 2019). This includes the Reporter's consideration of issues and recommended modifications to the Plan, which are largely binding on the Council. It is therefore anticipated that they will become part of the adopted Plan; however, this is subject to formal confirmation. The Council is progressing the Proposed Plan (as so modified) towards adoption which will require approval by the Council and thereafter submission to the Scottish Ministers. It is expected that LDP2 will be adopted by 31 October 2019. The Proposed LDP2, its policies and proposals are referred to within this report where they are material to the recommendation or decision.

### **SITE HISTORY**

- 17 None.

### **CONSULTATIONS**

- 18 As part of the planning application process the following bodies were consulted:

#### **External**

##### **Scottish Water**

- 19 No objection to the proposed development as there is currently sufficient capacity in the Killiecrankie Water Treatment Works to service the development. Scottish Water is however unable to confirm capacity at the Fearnan Waste Water Treatment Works.

##### **Glen Lyon & Loch Tay Community Council**

- 20 No objection to the demolition of the existing bungalow although objects to the design of the replacement dwellinghouse as it is considered out of character and of inappropriate scale and materials for the area.

#### **Internal**

##### **Transport Planning**

- 21 No objection to the proposed development.

### **Environmental Health (Noise Odour)**

- 22 No objection to the proposed development subject to conditional control regarding the operation of the proposed stove.

### **Development Negotiations Officer**

- 23 No contributions required.

### **Biodiversity Officer**

- 24 No objection to the proposed development subject to conditional control regarding bats.

### **REPRESENTATIONS**

- 25 19 letters of representation were received (including a letter from Glen Lyon & Loch Tay Community Council) regarding the proposed development. In summary, the letters highlighted the following concerns:

- Out of character with the area
- Will destroy the rigg system
- Excessive height and scale
- Not proportionate to the site
- Inappropriate material choice
- Contrary to LDP
- Inaccuracies in the submitted plans
- Loss of amenity
- Proposal will set a precedent

- 26 These issues are addressed in the Appraisal section of the report.

### **ADDITIONAL STATEMENTS**

27	Environment Statement	Not Required
	Screening Opinion	Not Required
	Environment Impact Assessment	Not Required
	Appropriate Assessment	Not Required
	Design Statement / Design and Access Statement	Submitted
	Reports on Impact or Potential Impact	Submitted (Ecology Survey)

### **APPRAISAL**

- 28 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local

Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance, namely the Council's Placemaking Guide.

### **Principle**

- 29 The determining factors in the assessment of this application are ultimately whether the principle of the development is acceptable and if the proposed scheme accords with the relevant provisions of the Local Development Plan. In this instance, the application site is located within the identified settlement boundary of Fearnan, where Policy RD1 'Residential Areas' is directly applicable. As this proposal is within an identified Residential Area, the principle of a replacement dwellinghouse is therefore considered acceptable. Nevertheless, full consideration must be given to the design, layout, scale, massing and potential impact upon other residential properties. Other policies are also directly applicable to ensure that the amenity and the biodiversity of the area and the values that give rise to the designation of the Breadalbane Environmentally Sensitive Area and the Loch Tay Special Landscape Area are not compromised.

### **Design and Layout**

- 30 The existing dwellinghouse to be demolished is not considered to be of a high quality design and its removal affords the opportunity to create a new building which enhances the character of the area. The majority of the letters of representations received do not raise the removal of the existing dwellinghouse as a concern.
- 31 In relation to the proposed dwellinghouse, the design of the unit is contemporary in nature. Within the neighbouring area in Fearnan, a number of contemporary designs have already been granted by the Planning Authority. This includes the immediately neighbouring property to the east, 'Grey Timbers', which was granted under application 07/01232/FUL and has now been constructed. Although less modern, another application (17/01563/FLL) for a replacement dwellinghouse at 'Bruaich Cottage' was also approved 230m to the west of the site. Construction has now commenced on this project. It is considered that a contemporary proposal is acceptable within Fearnan providing that it does not appear out of place and it effectively links with the surrounding environment.
- 32 With regards to the height of the building, the proposed dwellinghouse will have the same finished ground floor level as the existing dwellinghouse and its maximum height will be approximately 3.1metres higher than the existing dwellinghouse, although it is noted that the majority of the roof does not reach this maximum height. There is a mix in heights of buildings in the surrounding area. The maximum height of the proposed dwellinghouse is considered to be acceptable forming an effective step between the existing buildings Dalmore and Grey Timbers neighbouring the site.

- 33 The public road is approximately 4.3metres higher than the finished ground level to the front of the proposal. Due to the proposed dwellinghouse being built into the hillside, the proposed unit will only appear as a single storey building when viewed from this public road. Building into the hillside will therefore reduce the visual massing and scale of the unit. It is worth noting that the maximum height of the proposed dwellinghouse is the same as the finished floor level of the property (Bracken) to the immediate north of the site. Bracken will therefore remain to be the highest house on the streetscene.
- 34 With regards to the scale of the proposed dwellinghouse, the footprint of the building, excluding the roof overhang and covered car port, will be approximately 266m<sup>2</sup>. This is approximately double the footprint of the existing building. Whilst this is a large increase from the existing footprint, as a result of the large plot in which it is situated, the proposal will only occupy approximately 8% of the development site. The Council recommends that new developments do not exceed 25% of the building plot. In this instance, at only 8%, this is well in accordance with the Council's Placemaking Guide. The plot is also capable of accommodating a building of this scale without compromising the character or amenity of the area.
- 35 In relation to materials, a contemporary palette has been chosen including zinc, smooth white render, glass and timber cladding. These materials are considered to complement the varying materials of neighbouring buildings and are not considered to be of any detriment to the surrounding area. The zinc and glass will complement the natural colouring of Loch Tay and the elements of timber cladding will help the proposal to blend in to the surrounding greenery. The white render will also not appear out of place as there are a number of properties within Fearnan that include white render. The materials are considered to be an improvement from the existing dwellinghouse which is concrete roof tiles and off white render with white uPVC windows and doors.

### **Landscape and Visual Amenity**

- 36 The site is located within the Loch Tay Special Landscape Area. The proposal must therefore ensure that the design does not compromise the special values that give rise to this designation. As the proposed dwellinghouse is to be built into the hillside within an existing building group, whilst also being located within the settlement boundary of Fearnan, it is not considered to be of significant detriment to the landscape qualities or visual amenity of the area. The scale of the dwellinghouse will not appear highly intrusive when viewed from prominent locations at Loch Tay or within Fearnan itself. Furthermore, due to the established vegetation within Fearnan and surrounding the site, this will help to provide a landscape setting for the proposed development.

### **Residential Amenity**

- 37 The orientation and location of the proposed unit does not raise any adverse concerns in relation to residential amenity. There will be no overshadowing to neighbouring properties and the majority of the windows are located on the south elevation of the building facing into the applicant's garden ground. The

closest point of the southern elevation to the southern boundary is approximately 52m. To the western boundary with Dalmore, whilst the distance to the boundary from the windows is only approximately 7.2m, there is an established hedge on this boundary exceeding approximately 3m in height. This established hedge reduces any overlooking to the neighbouring bungalow Dalmore. Furthermore, the Council recommends that window to window distance boundary should exceed 18metres. In this instance, the closest window on the proposed development to the closest window on Dalmore is approximately 23m.

- 38 As there is no adverse overlooking considered to be created by the location of windows on the proposed development, attention now turns towards the proposed balcony at first floor level on the southern elevation. The balcony will overlook the applicant's garden rather than the neighbouring property Dalmore. Again, due to the established boundary hedge which exceeds 3m in height, this will help to reduce any overlooking created. Even if the hedge was removed, the balcony would only overlook the garden ground of Dalmore and not significantly upon the dwellinghouse itself. It is noted that the hedge is within the ownership of Dalmore therefore the applicant would not be entitled to remove this hedge.
- 39 The Council's Environmental Health team were consulted as part of this application and do not have any objection to the proposed development, subject to conditional control regarding the operation of the proposed stove. It is considered appropriate to attach this recommended condition to any permission granted to ensure that there is no smoke and odour nuisance to neighbouring properties. This will further help to protect residential amenity (Condition 4).

### **Roads and Access**

- 40 As the proposal seeks to replace an existing 3 bedroomed unit with a new 3 bedroomed unit, it is considered that the proposal will likely have a similar impact upon the local road network. The existing access to Briar Croft will be used for the proposed development which will lead to a new parking area which is capable of accommodating approximately 4 standard sized motor vehicles. The parking area will also provide turning facilities to allow for all vehicles to exit the site in a forward gear. This arrangement is considered to be acceptable for the level of traffic likely to be generated by the proposed development. Furthermore, the Council's Transport Planning Team, consulted as part of this application, has no objection subject to conditional control regarding the vehicular access (Conditions 2 & 3).

### **Drainage and Flooding**

- 41 The site is not in an area of known flood risk and the proposed development is not considered to create any drainage implications. As the proposed dwellinghouse only occupies approximately 8% of the development site, there is sufficient soft landscaping for drainage for the scale of the proposed building.

Furthermore, due to the topography of the land, the site naturally drains towards Loch Tay to the south.

### **Waste Collection**

- 42 There is sufficient storage space on the site for the storage of waste bins. An informative is recommended to highlight the Council's waste requirements to the applicant (Informative 7).

### **Conservation Considerations**

- 43 The site is not in a designated Conservation Area, or in close proximity to a listed building or any other historic designated site of interest. It is therefore considered that the development will have no adverse impact upon the cultural heritage of the area.
- 44 Fearnan is however characterised by a rigg system which contributes positively to the cultural heritage of the area. The riggs generally slope downwards from north to south towards Loch Tay and average at approximately 38m in width. Within some of the letters of representations received, concerns were raised at the impact of the proposed development upon this rigg system. The proposed development does not propose to alter any of the site boundaries or introduce any new boundaries. It is therefore considered that there will be no impact upon the rigg system.

### **Natural Heritage and Biodiversity**

- 45 The site is located within the Breadalbane Environmentally Sensitive Area and the existing dwellinghouse has the potential to accommodate roosting bats. As such, an ecology survey was submitted. This survey identified that no bats, red squirrels or breeding birds were found on the development site. The Council's Biodiversity Officer has reviewed the submitted survey and has confirmed that the survey is of a good quality and was carried out in accordance with published best practice. As such, the Biodiversity Officer has no objection to the proposed development subject to informatives regarding bats and breeding birds (Informatives 5 & 6).

### **Developer Contributions**

#### Primary Education

- 46 The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity.
- 47 This proposal is within the catchment of Kenmore Primary School.

- 48 Education & Children's Services have no capacity concerns in this catchment area at this time; therefore no education contribution is required. In any event the proposal is for a replacement house.

### **Economic Impact**

- 49 The development of this site would account for short term economic investment through the construction period and indirect economic investment of future occupiers of the associated development.

### **LEGAL AGREEMENTS**

- 50 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 51 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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 REASONS FOR RECOMMENDATION**

- 52 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 53 Accordingly the proposal is recommended for approval subject to the following conditions.

### **RECOMMENDATION**

**Approve the application.**

#### **Conditions and Reasons for Recommendation**

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

2. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type B Figure 5.6 access detail, of Type B Road construction detail.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary, control of surface water & provision of an adequate gradient of access.

3. Prior to the development hereby approved being completed or brought into use, the gradient of the access shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary, control of surface water & provision of an adequate gradient of access.

4. The stove shall be installed, operated and maintained in full accordance with the manufacturer's instructions and shall not be used to burn fuel other than that approved for use by the manufacturer of the appliance.

Reason - To ensure that emissions from the development do not result in undue loss of amenity for surrounding properties.

## **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.

5. Due to the nature of the proposed work it is important to keep in mind the possibility of finding bats when doing demolition works. If bats are found during works, all work must stop immediately and you should contact SNH Licencing Team (01463 725 000) immediately for advice. For further information visit the Bat Conservation Trust website <http://www.bats.org.uk/>. Please note that bats are protected by law, and it is a criminal offence to deliberately harm, capture, kill or disturb a bat or its resting place. It is also an offence to damage or destroy a resting or breeding place used by bats.
6. Existing buildings or structures may contain nesting birds between 1st March and 31st August inclusive. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
7. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
8. 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 Environment Protection Agency.

Background Papers: 19 letters of representation  
Contact Officer: Sean Panton  
Date: 15 August 2019

**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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