

**TCP/11/16(261)**

**Planning Application 13/00437/FLL - Extension to dwellinghouse (partly in retrospect) 36 Mercat Green, Kinrossie, Perth, PH2 6HT**

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**TCP/11/16(261)**  
**Planning Application 13/00437/FLL - Extension to**  
**dwellinghouse (partly in retrospect) 36 Mercat Green,**  
**Kinrossie, Perth, PH2 6HT**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**





Pullar House 35 Kinnoull Street Perth PH1 5GD

Tel: 01738 475300

Fax: 01738 475310

Email: [onlineapps@pkc.gov.uk](mailto:onlineapps@pkc.gov.uk)

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000066909-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

## Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

### Agent Details

Please enter Agent details

Company/Organisation: MBM Planning & Development

Ref. Number:

First Name: \* Mark

Last Name: \* Myles

Telephone Number: \* 01738 450506

Extension Number:

Mobile Number:

Fax Number: 01738 450507

Email Address: \* [mm@mbmplanning.co.uk](mailto:mm@mbmplanning.co.uk)

You must enter a Building Name or Number, or both:\*

Building Name: Algo Business Centre

Building Number:

Address 1 (Street): \* Glenearn Road

Address 2:

Town/City: \* Perth

Country: \* UK

Postcode: \* PH2 0NJ

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="John"/>
Last Name: *	<input type="text" value="Haley"/>
Company/Organisation:	<input type="text"/>
Telephone Number:	<input type="text"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address:	<input type="text"/>

You must enter a Building Name or Number, or both:\*

Building Name:	<input type="text"/>
Building Number:	<input type="text" value="36"/>
Address 1 (Street): *	<input type="text" value="Mercat Green"/>
Address 2:	<input type="text" value="Kinrossie"/>
Town/City: *	<input type="text" value="Perth"/>
Country: *	<input type="text" value="United Kingdom"/>
Postcode: *	<input type="text" value="PH2 6HT"/>

## Site Address Details

Planning Authority:	<input type="text" value="Perth and Kinross Council"/>
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Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="36 Mercat Green"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="Kinrossie"/>	Town/City/Settlement:	<input type="text" value="Perth"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="PH2 6HT"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="732420"/>	Easting	<input type="text" value="318934"/>
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## Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*

(Max 500 characters)

Extension to house

## Type of Application

What type of application did you submit to the planning authority? \*

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to statement attached on separate document

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

☐ Yes ☒ No

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

MBM1 - Planning application forms and plans, MBM2 - Decision Notice, MBM3 - Report of Handling, MBM4 - Email correspondence with planning officer, MBM5 - Conservation Officer consultation response

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

13/00437/FLL

What date was the application submitted to the planning authority? \*

05/03/13

What date was the decision issued by the planning authority? \*

01/05/13

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☐ Yes ☒ No

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

Please select a further procedure \*

Inspection of the land subject of the appeal. (Further details below are not required)

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? \* (Max 500 characters)

To view other extensions and new build in the surrounding area and to assess the proposed extension when viewed from Mercat Green

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

Can the site be clearly seen from a road or public land? \*

☐ Yes ☒ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☒ Yes ☐ No

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

## Checklist - Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and drawings) which are now the subject of this review \*

☒ Yes ☐ No

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 (if any) from the earlier consent.

## Declare - Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mark Myles

Declaration Date: 01/07/2013

Submission Date: 01/07/2013



**Notice of Review Appeal  
against refusal of planning permission for**

**Extension to dwellinghouse (partly in retrospect) at  
36 Mercat Green, Kinrossie, Perth, PH2 6HT**

**Grounds of Appeal**

**on behalf of Mr John Haley**

**1<sup>st</sup> July 2013**

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- 2 Response to PKC reasons for refusal
- 3 Conclusions

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| MBM2 | PKC refusal notice dated 1 <sup>st</sup> May 2013                      |
| MBM3 | PKC Report of Handling   |
| MBM4 | Email correspondence between agent and PKC                             |
| MBM5 | Conservation Officer Consultation Response 28 <sup>th</sup> March 2013 |

## **1. Introduction**

- 1.1 This appeal statement should be read in conjunction with the Notice of Review submitted on 1<sup>st</sup> July 2013 on behalf of Mr John Haley. The Notice of Review relates to a planning application for an extension to the property at 36 Mercat Green, Kinrossie, PH2 6HT. The planning application (13/00437/FLL) (MBM1) was refused by PKC on 1<sup>st</sup> May 2013 (MBM2).
- 1.2 The background to this proposal is that the applicants had originally approached the planning department to seek advice on the size of extension that could be built without the need for planning permission. However when obtaining that advice it was not made clear that permitted development rights were different for properties that are located within Conservation Areas. As such a building warrant was obtained for the extension and work commenced prior to the applicants being made aware that the extension did in fact require planning permission.
- 1.3 As soon as this was made known to the applicants, work ceased on the extension and a planning application was submitted. However during consideration of that application (12/01232/FLL) concerns were raised by the council's conservation officer. The agent agreed to withdraw that planning application and discussed revised proposals with the council which included a site meeting with the Conservation officer on 27<sup>th</sup> February 2013.
- 1.4 Following that meeting the planning officer confirmed in his email of 28<sup>th</sup> February 2013 (MBM4) that he had liaised with the conservation Officer and that they were both satisfied with the revised proposals as they showed a reduction in the mass of the extension and that it now read as a separate building. The extension would be finished in materials to match the existing property.
- 1.5 Accordingly the agent proceeded to submit the revised planning application in the belief that it had now addressed previous concerns raised by the planning department. The consultation response that was received from the conservation officer (MBM5) gave further comfort to the applicants that the planning application was likely to be acceptable and approved.
- 1.6 The appellants have lived at this property for 9 years and have invested a great deal of time and money improving and upgrading the cottage and the garden areas that have helped to enhance the original appearance of the cottage and the surrounding area. The appellants have a large rear garden and simply want to extend their property to meet the modern day living requirements for their family.
- 1.7 The proposal requires to be considered under the terms of the development plan policies contained within the Perth Area Local Plan.

- 1.8 We strongly contest the council's reasons for refusal of the planning application as well as what we believe to be a number of incorrect statements contained within the Report of Handling (attached – MBM3).

## **2. Response to PKC Reasons for Refusal**

- 2.1 As highlighted above the planning application was refused on 1<sup>st</sup> May 2013 for two different reasons (MBM2).
- 2.2 Both reasons for refusal make reference to Policy 71 of the adopted local plan. This is the general background policy that applies to all villages with inset maps as shown in the local plan.
- 2.3 Addressing each of the subject headings that are referred to in the Report of Handling we would respond to the concerns raised as follows.

### **Amenity**

The Report of Handling recognises that the property has a substantial garden as do most within Kinrossie, and therefore the proposal would not affect the amenity of the existing property.

The planning officer raises a concern that the extension would be partly visible from Mercat Green to the south, due to the fact that those properties located to the south of the application site are set back from the public road. Whilst part of the extension will be visible from Mercat Green, it would only be a small part and even then it would only be a brief glimpse by anyone travelling or walking north along Mercat Green. The extension would be finished to match the external elevations of the existing property so would not appear incongruous as it would blend in with the existing building.

Furthermore the planning officer makes no mention of the fact that from that particular viewpoint, other developments such as the house that was approved as backland development to the rear of the next door but one, is clearly more prominent when viewed from this particular part on Mercat Green.

Similarly the planning officer also fails to mention the fact that for anyone walking or driving south along Mercat Green it is possible to see the whole of the rear extension on the next door but one property where no concern was raised about the impact on amenity of the wider area.

As highlighted above the proposed single storey extension will be less visible than some other house extensions and other new build properties. This proposal is not considered to adversely affect the amenity of the village as a whole.

## 2.4 Overshadowing and Overlooking

Although there is a dining room window and a lounge window proposed on the south west elevation of the extension the planning officer recognises that there are no overlooking or overshadowing concerns raised by this elevation. Furthermore there are no overlooking issues caused by the single utility room window on the north east elevation which will look onto the existing boundary fence.

However the planning officer considers that the extension creates an overshadowing issue on the neighbouring property due to the '45 degree rule'. This particular rule does not form part of any adopted council policy or supplementary guidance. In terms of projecting out from a building line, consideration has to be given to the height and massing of any projection as well as existing boundary treatments. Furthermore it must be remembered that if it were not for the fact that this is a Conservation Area, then this extension would have been permitted development.

In this case the extension is set back by 1.05 m from the boundary and there is an existing 1.8 m high boundary fence between the application site and the neighbouring property. The nearest window on the neighbouring (objectors) property is a bedroom window that is located in the extension to that property.

The height of the proposed extension to eaves level is 2.3 metres and the ridgeline is 3.9 metres (not 4.9 metres as incorrectly stated in the Report of Handling). In our view the proposed south east elevation drawing helpfully shows that the height of the proposed single storey extension matches the eaves height of the neighbouring property. The existing boundary fence is approximately 1.8 metres high so the extension would project only 0.5 m above the fence. Furthermore the roof pitch of the proposed extension is such that if you take a 45 degree angle from the centre of the objectors' bedroom window, then by looking at the south east elevation drawing it is obvious that no overshadowing of the neighbouring property would occur to the detriment of the amenity of that property.

## 2.5 Design/Proposed Finishing Materials

The amended design for the proposed extension was discussed at length with the council and in particular the Conservation officer. We note that Policy 58 of the Perth Area Local Plan requires the character of Conservation Areas to be retained.

Policy 58 was not used as a reason for refusal of the application. Given that the Conservation Officers comments were of key importance in this case and it is clear that no objections or concerns were raised with the proposed design or external finishing materials, we fail to see how the planning officer could reach the view that the overall design is incongruous to the existing building and completely out of character with the existing design (reason for refusal no. 2). In fact the changes that were made to the design from the originally withdrawn application were positively welcomed by the Conservation Officer who was content with the revised design and

did not offer any objections to the application (MBM5). For the planning officer to suggest that this proposal would also set a precedent for other similar proposals is slightly disingenuous when it is clear that a number of other extensions and other more significant backland developments have already been approved in recent years in close proximity to this site. Each proposal must be considered on its own merits and in this case we do not consider that the reasons for refusal are valid or robust.

- 2.6 The Report of Handling also misquotes Policy 71 from the Perth Area Local Plan. Having taken account of the concerns raised by the planning officer and the objector and taking account of the actual criteria set out in Policy 71, our view is that residential amenity and village character will not be affected by this proposal and that the extension will not adversely affect the density, character or amenity of the village or have a negative impact on the Conservation Area.

### **3 Conclusions**

- 3.1 The proposed extension to the dwellinghouse will not result in a loss of amenity to the existing property or to neighbouring properties and will not have an adverse impact of the density, character or amenity of Kinrossie.
- 3.2 The Conservation Officer supported this revised proposal and did not consider that it would have any adverse impact on the Conservation Area.
- 3.3 The planning officer stated that both he and the Conservation Officer were satisfied with the proposal prior to the application being submitted.
- 3.4 The proposal is considered to conform to Policies 58 and 71 of the Perth Area Local Plan and we would therefore respectfully request that this Notice of Review is approved subject to any conditions that may be considered necessary by the Local Review Body.

04 MAR 2013

POINT

CUSTOMER SERVICE

4/3/13

PAID

CHEQUE £160

receipt no 95986

13/00437/FL

# HOUSEHOLDER 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

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

Title

MR

Ref No.

Forename

JOHN

Forename

LAWRENCE

Surname

HALEY

Surname

BERTRAM.

Company Name

Company Name

Building No./Name

Building No./Name

Address Line 1

36, HERCAT GREEN,

Address Line 1

EARLOWBANK FARMHOUSE

Address Line 2

Address Line 2

KINNORRY,

Town/City

KINROSSIE

Town/City

KIRRIEHUR.

Postcode

PH2 6HT.

Postcode

PA8 4LH.

Telephone

Telephone

01575 575900.

Mobile

Mobile

07516409024

Fax

Fax

Email

Email

lar@garlowbank.plws.com

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

36, HERCAT GREEN,  
KINROSSIE,  
PH2 6HT.

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

## 4. Describe the Proposed Works

Please describe accurately the work proposed:

EXTENSION TO HOUSE

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:

Nov 2012.

Date completed:

HALTED

RECEIVED  
0 - KVB 5013  
If yes, please explain why work has already taken place in advance of making this application.

HAD NOT REALISED HOUSE WAS IN A  
CONSERVATION AREA.

### 5. 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: RICHARD WELCH. Date: 27-02-13 Ref No.:

TO PROCEED WITH PLANNING APPLICATION WITH  
AMENDED SCHEME.

### 6. 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.

### 7. Changes to Vehicle 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 arrangement for continuing or alternative public access.

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

TWO

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

TWO.

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

### 8. 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 and that accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

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:

Name:

MR L.J. BERTRAM.

Date:

15<sup>TH</sup> MARCH 2013

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.

# 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 THE APPLICANT 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:

On behalf of:

Date:

### 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: ☐

Name	Address	Date of Service of Notice

### CERTIFICATE C

Certificate C 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 it has not been possible to identify ALL or ANY owners/agricultural tenants.

- (1) I have been unable to serve 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. ☐

or

- (2) I have been unable to serve notice on **any** person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates. ☐

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding.

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have been unable to serve notice on any person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. ☐

or

- (5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons 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: ☐

Name	Address	Date of Service of Notice

- (6) I have taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have been unable to do so.

Steps taken:

--

**CERTIFICATE D**  
**Certificate D**

Certificate D is for use where the application is for mineral development.

- (1) No person other than myself \_\_\_\_\_ was an 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 accompanying application. ☐

or

- (2) I have \_\_\_\_\_ served notice on each of the following persons other than myself \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding. ☐

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have \_\_\_\_\_ served notice on each of the following persons other than myself \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant. ☐

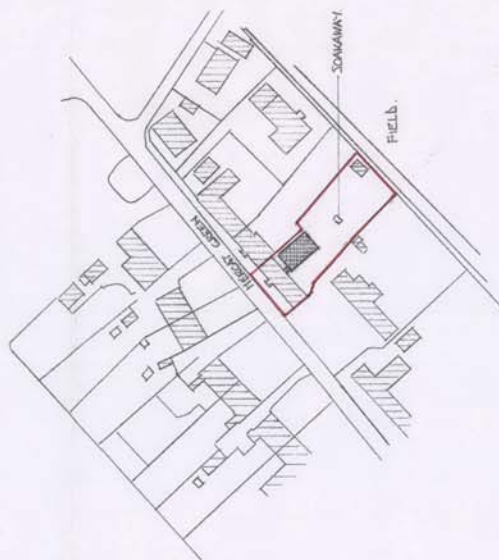
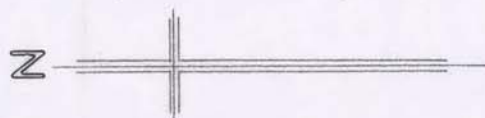
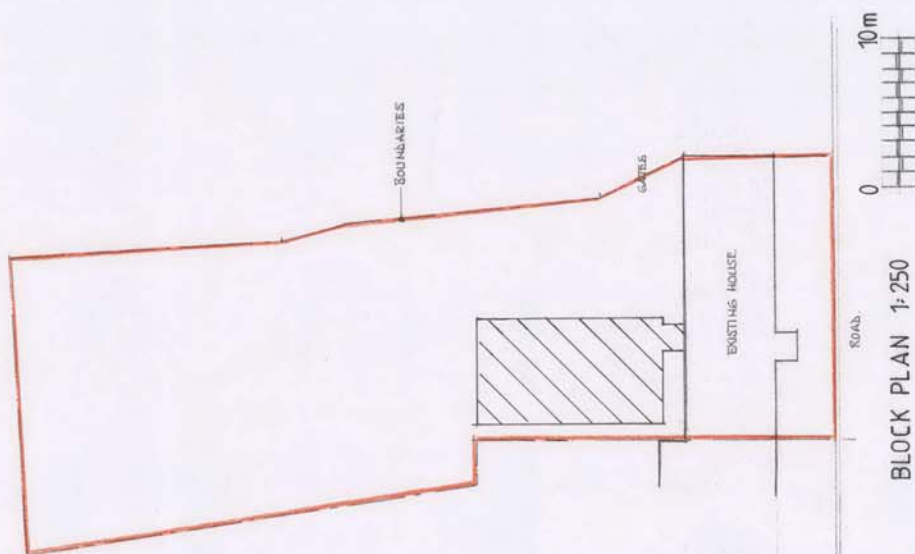
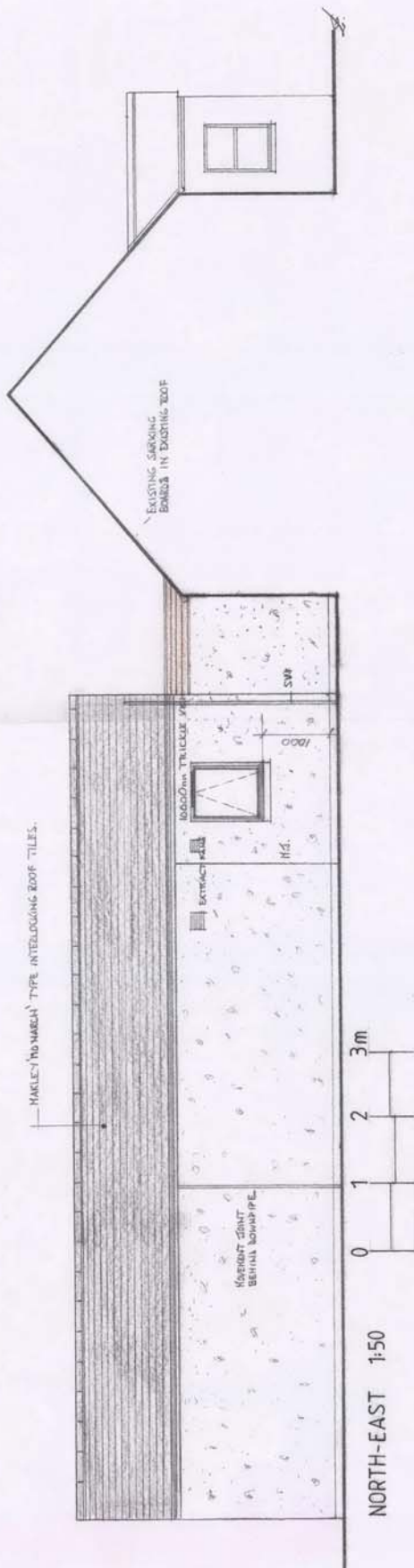
- (5) Notice of the application as set out below has been published and displayed by public notice ☐

Signed:

On behalf of:\*

Date:

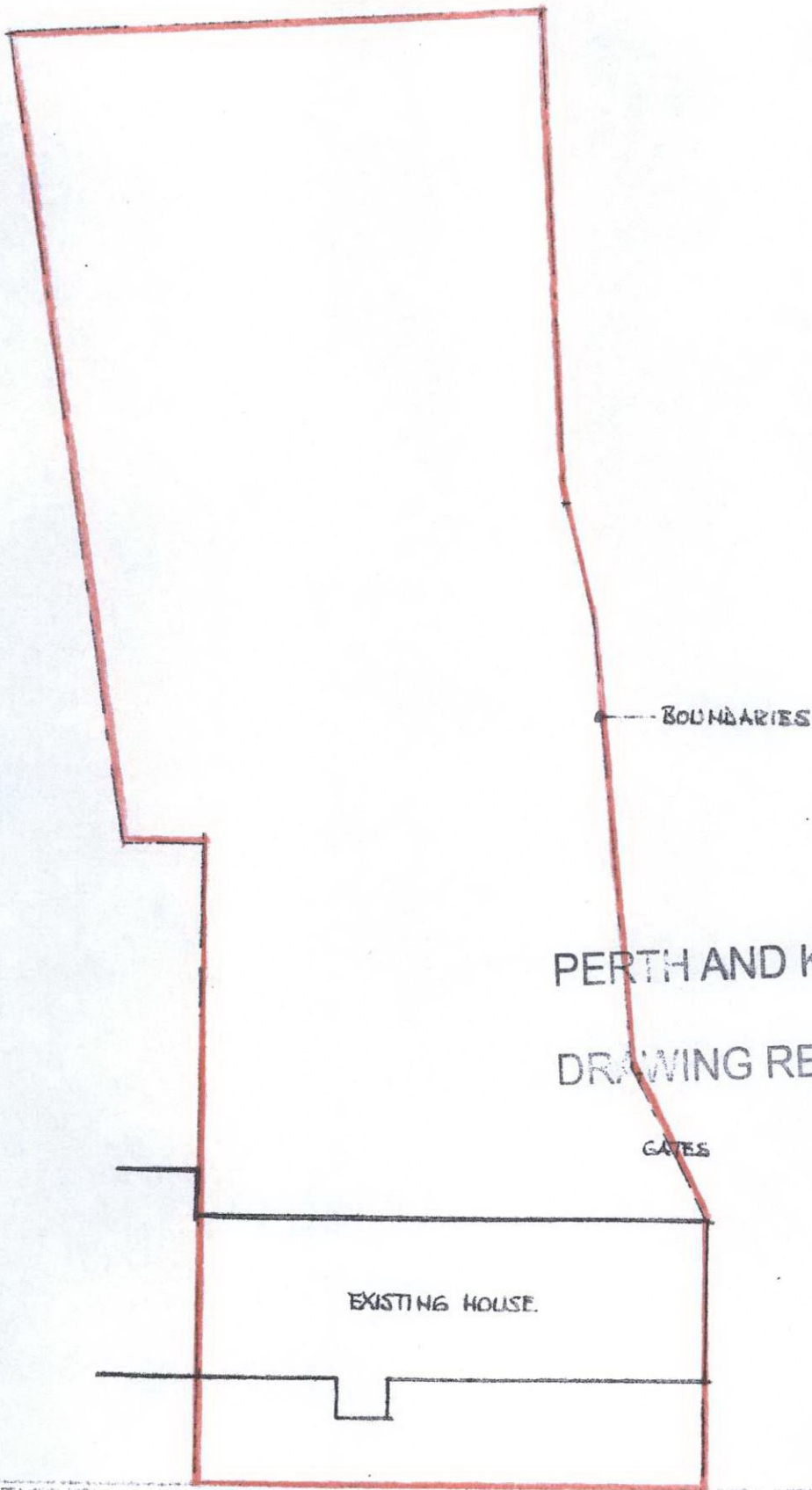
Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act



PERTH AND KINROSS COUNCIL

DRAWING NPJMH/MGK/02/c

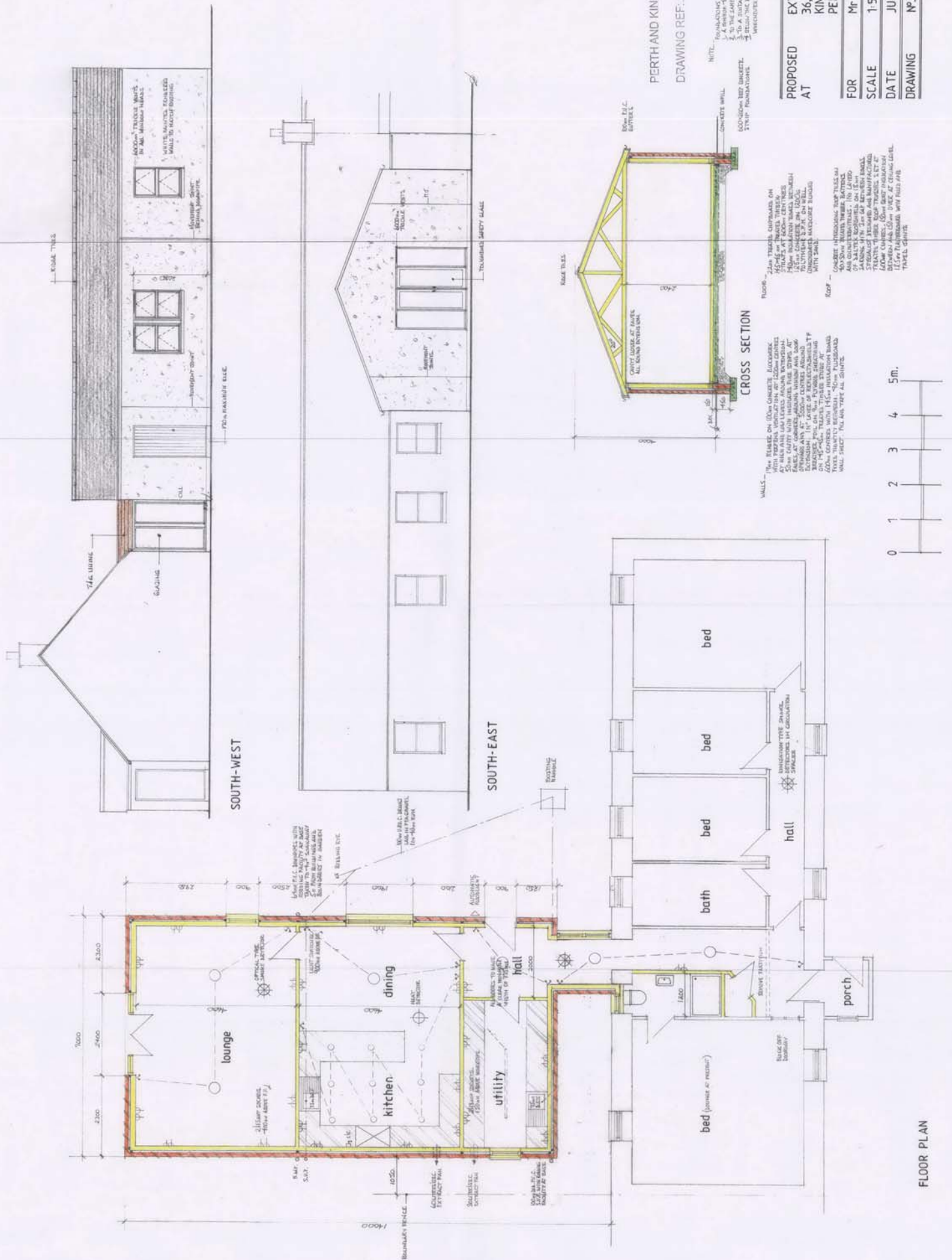
DRAWING REF: B/004371



PERTH AND KINROSS COUNCIL  
DRAWING REF: 13/00437/2

EXISTING BLOCK PLAN 1:250  
30







# PERTH AND KINROSS COUNCIL

Mr John Haley  
c/o Lawrence Bertram  
Garlowbank Farmhouse  
Kinnordy  
Kirriemuir  
DD8 4LH

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date 1st May 2013

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **13/00437/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 5th March 2013 for permission for **Extension to dwellinghouse (partly in retrospect) 36 Mercat Green Kinrossie Perth PH2 6HT** for the reasons undernoted.

Development Quality Manager

### Reasons for Refusal

1. The proposal constitutes overshadowing into the neighbouring adjacent property, which is contrary to Policy 71 in the Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000); which discourages infill development where it would have an adverse effect on the density, character and amenity of residential areas. In this case, it is clear that the proposal has a detrimental effect on the amenity of the neighbouring adjacent property.
2. The proposed design is contrary to Policy 71 of the Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000); as the scale, form and design of the development is incongruous with the character of the existing property and properties within the surrounding area, to the detriment of visual amenity.

## **Justification**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

## **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](http://www.pkc.gov.uk) "Online Planning Applications" page

### **Plan Reference**

13/00437/1

13/00437/2

13/00437/3

## REPORT OF HANDLING

### DELEGATED REPORT

<b>Ref No</b>	<b>13/00437/FLL</b>
<b>Ward No</b>	<b>N2- Strathmore</b>

**PROPOSAL:** Extension to dwellinghouse (partly in retrospect)

**LOCATION:** 36 Mercat Green Kinrossie Perth PH2 6HT

**APPLICANT:** Mr John Haley

**RECOMMENDATION:** REFUSE THE APPLICATION

**SITE INSPECTION:** 14 March 2013

#### **OFFICERS REPORT:**

#### **Site Description:**

The application site relates to No. 36 Mercat Green, Kinrossie. Located within the Kinrossie Conservation area, the application site refers to a single storey terraced property of fairly traditional form and appearance, clad in rendered walls with a pitched, concrete tiled roofline.

#### **Development Proposal:**

This application seeks detailed Planning Consent for a (partly retrospective) single storey extension on the rear of the property, (south elevation). This is a re-submitted application based on the concerns raised in terms of design with the previous withdrawn application, (App Ref No: 12/02132/FLL). As a consequence of the previous concerns raised by the Council's Conservation Officer, the floorspace has now been reduced and it is now connected to the cottage via a small-scale link corridor. Thus, the extension now reads as a separate outbuilding. The extension is to be constructed in materials to match the existing i.e. rendered walls with concrete roof tiles.

The floorspace of the development equates to an area of 88 square metre. In particular, the (partly retrospective) extension projects back from the rear of the existing property by 14 metres; including a link-to corridor adjoining the existing property to the extension by 1.8 metres. The height of the extension to the eaves equates to 2.3 metres; whilst the height to the ridgeline is 4.9 metres.

#### **Assessment:**

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plans that are applicable to this area are the approved Tay Plan 2012 (Strategic Development Plan 2012 - 2032) and the adopted Perth Area Local Plan 1995 (Incorporating Alteration

No. 1 Housing Land 2000). As a consequence of the application site falling within the Kinrossie settlement envelope, the application falls to be assessed against Policy 71. Policy 71 seeks to ensure, among other criteria, that "some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the area concerned."

The determining issues for this application are therefore: (i) Whether the proposal is in accordance with the relevant provisions of the Development Plan, (namely Policy 71 of the PALP 1995); and, (ii) Whether an exception to those provisions is justified by other material considerations.

Having inspected the application site and carefully assessed the submitted plans, I would assess the proposal as follows:-

### **Amenity:**

The existing plot is of a sufficient size to accommodate this, partly retrospective development, without adversely affecting the residential amenity of the application site.

In terms of visual amenity, the development is (partly retrospect), on the rear of the existing property. However, those properties located to the south-west of the existing property are set back further from the road and, thus, part of the development would be visible from Mercat Green. As a consequence of the difference in terms of how far back the front building line of neighbouring properties is, there are potential adverse visual amenity issues with this development.

### **Overshadowing and Overlooking:**

Although there are windows proposed on the south-west elevation of the extension, there are no overlooking issues here due to this elevation looking onto the front garden ground of the adjacent properties that. (as discussed above) are set further back from the road. With regard to the north-east elevation, there is one window on this part of the extension but it is for the purposes of a utility room and, therefore, does not concern a room of habitable accommodation. Therefore, the extension does not pose any adverse overlooking issues to any neighbouring residential properties.

The key test is, therefore in overshadowing. It is clear from the plans submitted that the nearest edge of the development is located only 1.05 metres from the neighbouring boundary. Whilst in some cases, this would be an acceptable separation distance, the extension projects back from the rear of the property by 14 metres, (including the link-to corridor); and, 12 metres excluding the link-to corridor. This amount of projection, together with the use of the 45 degree rule clearly overshadows into the nearest habitable room window of the neighbouring, adjacent property and, thus, adversely impacts upon daylighting.

Having taken account of overlooking and overshadowing, it is considered that this (partly retrospective) development does adversely affect the neighbouring adjacent property (to the north-east), as regards privacy and or loss of daylight/sunlight. In short, the extension provides overshadowing issues.

### **Design/Proposed Finishing Materials:**

In terms of design and appearance, this partly retrospective development is considered to pose significant adverse issues in terms of the mass and scale in relation to the existing property. The mass and scale of the development is not subordinate to the existing as it equates to significantly more than 50% of the existing floorspace; and, detracts from what is a modest single storey terraced bungalow. This concern with the design is exacerbated, given that the neighbouring surrounding properties are predominantly modest in size and scale. As a consequence, the extension is overtly large and introduces what would be an undesirable precedent for this property as well as the neighbouring, adjacent properties. Overall, the design is considered incongruous to the existing building and, therefore, is completely out of character with the existing design.

### **Conservation Section:**

As a consequence of the property falling within the Kinrossie Conservation Area, the Council's Conservation Section have been consulted. In their comments they have confirmed that they have no objections.

### **Conclusion:**

Taking account of the points discussed above, it is concluded that the proposal does not accord with the adopted Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000). As a consequence of the above mentioned material considerations, there is no reasoned justification for approving this application. On that basis, this application is recommended for refusal.

## **DEVELOPMENT PLAN**

The Development Plan for the area comprises the approved Tay Plan 2012 (Strategic Development Plan 2012 – 2032 and the adopted Perth Area Local Plan 1995 Incorporating Alteration No. 1 Housing Land 2000). There are no strategic issues of relevance raised in the Tay Plan 2012 (Strategic Development Plan 2012 – 2032). In summary, the principal Development Plan policies are raised in the Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000). These are as follows:-

### **Policy 71** **Perth Area Villages**

Policy 71 seeks to ensure, among other criteria, that "In the case of built development, the scale, form, colour and design of development should accord with the existing pattern of building".

## **PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN – PROPOSED PLAN, JANUARY 2012**

The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan scheme sets out the timescale and stages leading up to adoption. Currently undergoing a period of representation, the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will

be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application.

Under the LDP (Local Development Plan), the relevant paragraph related to this application are: Policy PM1: Placemaking and Policy HE3 (Conservation Areas). Policy PM1 states that development must contribute positively, to the quality of the surrounding built and natural environment. The design and siting of development should respect the character and amenity of the surrounding area.

Policy HE 3 states that “there is a presumption in favour of development within a Conservation Area that preserves or enhances its character or appearance. The design, materials, scale and siting of new development within a Conservation Area; and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting.

## **OTHER POLICIES**

None specific.

## **SITE HISTORY**

12/02132/FLL Extension to dwellinghouse (partly in retrospect)

***Application Withdrawn***

## **CONSULTATIONS**

Conservation Team	No objections.
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Scottish Water	No objections.
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**TARGET DATE:** 5 May 2013

## **REPRESENTATIONS RECEIVED:**

Number Received: 3

## **Summary of issues raised by objectors:**

There are two letters objecting to the proposal and one letter in support of the application. Regarding the representations received from neighbouring residents against the development, the reasons cited are as follows:-

- Development is out of character with the area/design of proposal;
- Overlooking;
- Overshadowing

**Response to issues raised by objectors:**

In response to the above-mentioned points raised, objecting to the application, it is clear that these points are considered as valid material planning consideration and have been given cognisance to in terms of the determination of this application.

The application has been recommended for refusal.

**ADDITIONAL STATEMENTS RECEIVED:**

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 e.g. Flood Risk Assessment	Not required

**LEGAL AGREEMENT REQUIRED**

None required

**DIRECTION BY SCOTTISH MINISTERS**

None required

**REASONS FOR REFUSAL:**

- 1 The proposal constitutes overshadowing into the neighbouring adjacent property, which is contrary to Policy 71 in the Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000); which discourages infill development where it would have an adverse effect on the density, character and amenity of residential areas. In this case, it is clear that the proposal has a detrimental effect on the amenity of the neighbouring adjacent property.
- 2 The proposed design is contrary to Policy 71 of the Perth Area Local Plan 1995 (Incorporating Alteration No. 1 Housing Land 2000); as the scale, form and design of the development is incongruous with the character of the existing property and properties within the surrounding area, to the detriment of visual amenity.

**JUSTIFICATION :**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

**INFORMATIVES:**

None.

## Lar Bertram

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**From:** "Phillip Sweeney" <PSSweeney@pkc.gov.uk>  
**Date:** 30 April 2013 08:48  
**To:** "Lar Bertram" <lar@garlowbank.plus.com>  
**Subject:** RE: 36 Mercat Green, Kinrossie  
Dear Mr Bertram,

I do not mean to sound pedantic here but the comments below relate to the proposed development from a Conservation perspective - based on the property falling within the Kinrossie Conservation area. The application still has to be assessed from a Planning perspective which is my role. Perhaps I did not explain this as best as possible and apologise for this but there is a distinction between the two.

Furthermore, although there is a link-to building between the extension and the existing building, the overall length of projection from the rear of the existing building is not much different to that in the application that was withdrawn.

By way of advice, if you returned with an extension that projects back no further than 7 metres from the rear, there would be more scope for an application being approved. The length of projection in the current application is too far back from the rear of the property and detrimentally affects the neighbouring, residential property by virtue of adverse overlooking issues.

Alternatively, another option for you to pursue is to Appeal the decision via the Local Review Body.

Regards,

Philip

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**From:** Lar Bertram [mailto:lar@garlowbank.plus.com]  
**Sent:** 30 April 2013 07:02  
**To:** Phillip Sweeney  
**Subject:** Re: 36 Mercat Green, Kinrossie

Given the content of this email you sent me I am somewhat confused and astonished with your comments made during our telephone conversation yesterday !Could you please explain why you have arrived at your present position two months later ?

Regards Lar

**From:** Phillip Sweeney  
**Sent:** Thursday, February 28, 2013 5:06 PM  
**To:** lar@garlowbank.plus.com  
**Subject:** 36 Mercat Green, Kinrossie

Lars,

Further to your meeting with Richard Welch yesterday, I have liaised with him today and we are satisfied with the revised proposal which reduces the mass and it now reads as a separate building.

Hope this helps,

Regardf,

Philip



# Memorandum

To Philip Sweeney  
Planning Officer

From Richard Welch, Conservation Officer,  
Development Management, Planning &  
Regeneration

Your ref 13/00437/FLL

Our ref

Date 28 March 2013

Tel No 76598

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The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

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## **Extension to dwelling-house (partly in retrospect): 36 Mercat Green, Kinrossie Conservation Officer comments**

This property is located within the Kinrossie Conservation Area.

The revised design for the extension has allayed my previous concerns. The floorplan has been reduced and it is now connected to the cottage via a small-scale link corridor. The extension now reads as a separate outbuilding. Visually the mass is significantly reduced and the extent of alteration and coverage of the rear elevation of the cottage is minimal.

Richard Welch  
Conservation Officer



**TCP/11/16(261)**

**Planning Application 13/00437/FLL - Extension to dwellinghouse (partly in retrospect) 36 Mercat Green, Kinrossie, Perth, PH2 6HT**

**PLANNING DECISION NOTICE** *(submitted as part of applicant's submission, see pages 33-34)*

**REPORT OF HANDLING** *(submitted as part of applicant's submission, see pages 35-40)*

**REFERENCE DOCUMENTS** *(submitted as part of applicant's submission, see pages 29-31)*



**TCP/11/16(261)**  
**Planning Application 13/00437/FLL - Extension to**  
**dwellinghouse (partly in retrospect) 36 Mercat Green,**  
**Kinrossie, Perth, PH2 6HT**

## **REPRESENTATIONS**

- Letter from Mrs J Shaw, dated 12 March 2013
- Objection from Mrs A Salmond, dated 19 March 2013
- Objection from Mr J Martin, dated 5 April 2013
- Representation from Mrs A Salmond, dated 12 July 2013
- Representation from Mr J Martin, dated 19 July 2013
- Agent's response to representations, dated 24 July 2013



12-3-13

14 MAR 2013

Mrs J Shaw  
41 Mercat Green  
Kinrossie  
Perth  
PH2 6HT

Supporting  
BritishRedCross



DEAR SIR OR MADAM

I GOT A LETTER

TODAY 12.3.13 ABOUT MY  
PERMISSION TOWARD JOHN HALLEY'S  
INTERACTIONS. I HAVE NO QUALMS  
REGARDING SAME.

YOURS SINCERELY

[REDACTED]

13/00437/FLC

PS



PS.

Alice Salmond



RECEIVED  
20 MAR 2013

RECEIVED  
20 MAR 2013

19 March 2013

Dear Sirs

Planning Application Ref. 13/00437/FLL – 36 Mercat Green Kinrossie PH2 6HT

Your Planning Application advice of the 8 March 2013 refers.

The south eastern wall of the proposed extension will be approx. five feet from my rear bedroom double window and patio. It will also be only approx. one metre from the south eastern boundary fence between the cottages. The south east gable wall has one window and two extractor fans in close proximity to my rear bedroom and patio.

My objection to the size and location of the proposed (partially started) extension is based on:

1. The dimension of the proposed extension in relation to those of the host building.
2. The mass and size of the proposed extension does not respect the traditional development pattern in Kinrossie and therefore will have an adverse impact on the character of the Conservation Area.
3. Loss of daylight and sunlight.
4. Overshadowing and loss of outlook due to close proximity.
5. Smells from the kitchen and utility room extractor fans.
6. Overlooking/loss of privacy.
7. Adverse impact on the rich variety of wild birds which use the open garden space to the rear of the cottages.

Yours faithfully



Alice Salmond (Mrs.)





**Mr John Martin (Objects)**

**Comment submitted date: Fri 05 Apr 2013**

I appreciate that I have missed the 29 Mar 13 deadline for comment, but I have been away from home for the last 3 months.

My objection relates to the architectural design -- the planned extension is out of character with other extension designs in the village, which is a Conservation Area. Nearly all other extensions in Kinrossie, and in particular two adjacent cottages with large extensions, have rooflines which blend into the roof of the existing cottage; this planned extension is connected by a short corridor which looks completely out of place compared with neighbouring properties. At the very least, the roof should link up properly with the existing cottage.

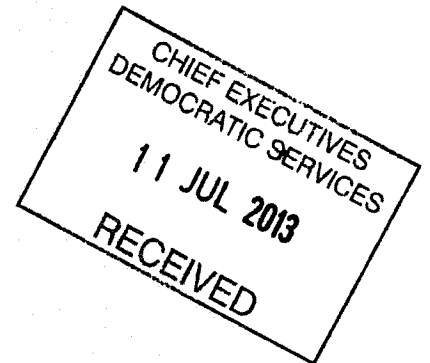


Alice Salmond

38 Mercat Green

Kinrossie

PH2 6HT



Gillian Taylor  
Clerk  
Perth and Kinross Local Review Body  
2 High Street  
Perth  
PH1 5PH

12 July 2013

Dear Ms. Taylor

Planning Application Ref. 13/00437/FLL – 36 Mercat Green Kinrossie PH2 6HT –Mr J Haley

Your letter of the 4<sup>th</sup> inst. in connection with a planning application review refers.

Presumably, the reference to Mr. J. Carey in the letter heading should read Mr. J Haley?

On further reflection, the proposed extension would also make maintenance access required to the rear gable wall of 38 Mercat Green difficult. This wall protrudes beyond the existing rear wall of 36 Mercat Green.

The concerns expressed in my letter of 19 March 2013 to the Planning Authority remain.

Yours sincerely

Alice Salmond (Mrs.)



## CHX Planning Local Review Body - Generic Email Account

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**From:** John F S Martin [REDACTED]  
**Sent:** 16 July 2013 15:38  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Application Ref : 13/00437/FLL

I am making a second representation about the above planning application which I understand is shortly to be reviewed by the PKC Local Review Body.

I first commented on this application by email on 5 Apr 2013. I can see no record of this on the reference application website, possibly because I missed the deadline for comment (for the reason I explained in my email); however, I do have email acknowledgement from PKC that it was received. To set the record straight, this is the comment I filed on 5th Apr :

*"I appreciate that I have missed the 29 Mar 13 deadline for comment, but I have been away from home for the last 3 months. My objection relates to the architectural design -- the planned extension is out of character with other extension designs in the village, which is a Conservation Area. Nearly all other extensions in Kinrossie, and in particular two adjacent cottages with large extensions, have rooflines which blend into the roof of the existing cottage; this planned extension is connected by a short corridor which looks completely out of place compared with neighbouring properties. At the very least, the roof should link in properly with the existing cottage. "*

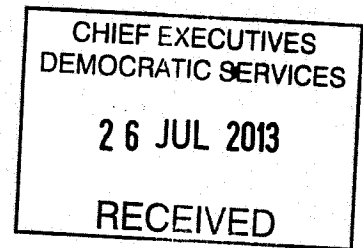
My first comment today is to reinforce what I have previously written. I object to the 'disconnected' nature of the extension and to the roof design. By attaching the extension to the original cottage by a small corridor, it would appear as a separate building which is totally out-of-character compared to neighbouring properties. Both 28 Mercat Green, which is an adjacent property looking directly onto 36 Mercat Green across the open area in front of 32 Mercat Green (30 and 34 Mercat Green do not exist), and #32 itself have large extensions which are integral parts of the respective cottages, which are parallel to the proposed extension, and which have roofs connected to each cottage at the roof ridge-line (as are most others in Kinrossie, including next-door-but-one 40 Mercat Green). Also, not only is the proposed extension 'disconnected' but the roof design is for a flat-ish roof-pitch with a lower ridge-line than the existing cottage, and it would look out-of-place amongst adjacent extensions which have roofs pitched to conform to the norm in the village. Therefore, the extension should butt directly onto the cottage and the roof should have a steeper pitch to conform with the local character with the ridge-line meeting the existing roof at the ridge-line.

My second comment relates to a statement about 'visual amenity' made in the Delegated Report dated 13 Mar 13 refusing the application -- the Report states that "as a consequence of the difference in terms of how far back the front building line in neighbouring properties is, there are potential adverse visual amenity issues with this development" (Note -- the 'neighbouring properties' are in fact one property, #32). I disagree with this adverse assessment because the extension at #28 (my property) is of similar size to the proposed one; both extensions would be clearly visible from the road and they would appear as mirror images either side of the open area in front of #32. The new extension would not therefore create an 'adverse visual amenity', in my view.

In sum, as the neighbour who (apart, perhaps, from the occupant of 38 Mercat Green) would have the clearest view of the proposed extension, I have no objection to the construction of an extension of the size proposed for #36. However, to conform to the local architectural design in a Conservation Area, the extension should be connected directly to the cottage, and not by a corridor, and the roof design should match adjacent extensions -- properly pitched in the local style with the ridge of the extension connected to the existing roof at the ridge-line.

John F S Martin





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

24<sup>th</sup> July 2013

Our ref: HAL002  
Your ref: TCP/11/16 (261)

Dear Sir/Madam

**Town & Country Planning (Scotland) Act 1997**  
**Notice of Review Appeal (13/00437/FLL)**  
**Extension to dwellinghouse (partly in retrospect), 36 Mercat Green, Kinrossie**

Thank you for your letter of 19<sup>th</sup> July attaching copies of additional representations received from interested parties.

In response to the letter from Mrs Alice Salmond dated 12<sup>th</sup> July, we would simply highlight that there would be no maintenance access issues due to the fact that the proposed extension is to be set back by 1.05 m from the boundary. Furthermore there is an existing 1.8 m high boundary fence between the application site and the neighbour's property. It should also be noted that the rear gable wall of the objector's extension is already positioned on the boundary.

The representation from Mr John Martin dated 16<sup>th</sup> July raises a concern with the 'disconnected' nature of the extension and to the roof design. In response it is clear that the applicants and agents engaged with the council prior to the submission of the revised planning application and the proposed design was discussed at length with the council's Conservation Officer who specifically sought the solution now proposed. The Conservation Officer's comments were of key importance in this case and it is clear that the proposed design was positively welcomed by the Conservation Officer.

Mr Martin suggests that the proposed extension should butt directly onto the cottage and should have a steeper roof pitch. However this was what was proposed in the originally withdrawn application and which was rejected by the planning and Conservation Officer's.

Mr Martin's second point is in relation to visual amenity and we are pleased to see that he agrees with our view that there would be no adverse visual impact caused by the extension.

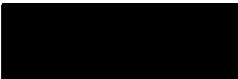
Mr Martin acknowledges that whilst part of the extension will be visible from Mercat Green, it would only be a small part and as we stated in our original statement even then it would only be a brief glimpse by anyone travelling or walking north along Mercat Green. Mr Martin also makes a good point in that the extension at no. 36 would also be similar to his own extension at no. 28, both being located either side of the open area in front of no. 32.

The extension would be finished to match the external elevations of the existing property so would not appear incongruous as it would blend in with the existing building. Mr Martin has no objections to the size of extension proposed for no.36.

As highlighted in our original statement the proposed single storey extension will be less visible than some other house extensions and other new build properties in Kinrossie. This proposal is not considered to adversely affect the amenity of the village as a whole.

I look forward to hearing from you on the above.

Yours faithfully



Mark Myles