

Perth and Kinross Council
Development Management Committee – 24 May 2017
Report of Handling by Interim Head of Planning

Erection of a dwellinghouse and relocation of public footpath, site west of 63
Needless Road, Perth

Ref. No: 17/00395/FLL
Ward No: N10 - Perth City South

Summary

This report recommends approval of the application for the erection of a dwellinghouse and relocation of public footpath on a site west of 63 Needless Road, Perth as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 This application site is located between Needless Road and Cavendish Avenue in Perth. The southern part of the site predominantly consists of single storey lock up garages and an area of hardstanding. To the north of the garages there is an electrical substation. Vehicular access to the garages is taken from Cavendish Avenue; this vehicular access currently has grass verges to either side. There is no vehicular access from Needless Road but there is a pedestrian access point. There are residential dwellings to the east and west of the site.
- 2 The proposal is for the demolition of the garages to facilitate the erection of a two storey detached dwellinghouse on the southern half of the site, and to accommodate this, the existing pedestrian access would be re-routed between the proposed property and no.63 Needless road. The existing site topography requires to be altered to accommodate the new 2.0m path. Vehicular access to the site would still be from Cavendish Avenue and this would be widened and upgraded. The grassed area to the west of the access falls outside the application site. Proposed parking is located between the rear garden of the proposed plot and the existing substation on the site.

NATIONAL POLICY AND GUIDANCE

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

DEVELOPMENT PLAN

- 4 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 5 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region 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 and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014

- 6 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 7 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 8 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

- 9 All proposals should meet all eight of the placemaking criteria.

Policy PM3 - Infrastructure Contributions

- 10 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1 - Residential Areas

- 11 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy TA1B - Transport Standards and Accessibility Requirements

- 12 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy CF2 - Public Access

- 13 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

OTHER POLICIES

Development Contributions

- 14 Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

SITE HISTORY

- 15 15/01716/FLL Erection of 3 dwellinghouses 19 November 2015 Application Withdrawn.
- 16 16/01261/FLL Erection of 2 dwellinghouses 23 January 2017 Application Refused under delegated powers.

CONSULTATIONS

EXTERNAL

- 17 None.

INTERNAL

- 18 **Community Greenspace** – The public footpath is known to be a valued route in the community. Although it is not identified as a right of way in their register, it is likely to be used as a right of way by local people and would certainly meet the criteria. Community Greenspace are satisfied with the public path provision as shown within this application.
- 19 **Developer Contributions Officer** – Education and Transport Infrastructure contributions required.

- 20 **Transport Planning** – No objection subject to conditional control relating to the footpath specification through the site and the erection of a pedestrian barrier on needless road.

REPRESENTATIONS

- 21 A total of twenty five letters of objection were received during the advertisement period for the application.
- 22 The objections have raised the following relevant issues: -
- Loss of car parking/garage facility, impact on road, road safety, traffic congestion.
 - Pedestrian/cycle access is too narrow it will be restricted and conflict with vehicles.
 - The development is not proposing safe cycling and walking in accordance with PKC policy.
 - The path will be closed during construction.
 - A detailed specification of the realigned path is required.
 - Rear parking courtyard may cause antisocial behaviour.
 - Concern with design of proposed houses and layout of site, inappropriate housing density, impact on areas character, inappropriate land use.
 - Existing greenspace/openspace will be lost.
 - Cars going to rear parking area would result in loss of amenity to neighbours.
 - Loss of light and privacy to dwellings.
 - Contrary to the development plan.
 - Light pollution.
 - It will not make a useful contribution to housing supply.
- 23 The above matters are addressed in the Appraisal section of this report. However the following elements also raised in the objections are best addressed at this stage under the following headings:-
- Disruption associated with construction activity on the site - I note the concern regarding construction noise in the representations received however this will likely be a short term change to the status quo and I do not consider that conditional control is required in this case. If issues did arise I consider this could be addressed satisfactorily through the use of powers under the Environmental Protection Act 1990
 - Health and safety concern with works on site, (including presence of asbestos) – the granting of planning permission does not alter other legislative procedures which will regulate on site works and how they are carried out.

- Vehicular access to existing garages (separate ownership) will be restricted – this is not a planning matter as any legal rights of access over the site to garages is a private/civil matter.
- Concerns with house numbering – this is not relevant to this planning application; the numbering of houses will be undertaken by the Council's Street Naming and Numbering Officer separately.
- Impact on service media within the site – this is not a planning matter. The relocation and /or diversion of service media within the site would be an issue to be resolved between the developer and the utility companies.

ADDITIONAL STATEMENTS

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Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not submitted
Reports on Impact or Potential Impact	Not submitted

APPRAISAL

Policy Appraisal

- 25 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by the 2006 Act require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.
- 26 The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

Principle

- 27 The site is located within the Perth settlement boundary where Policy RD1 of the LDP applies. This recognises that residential development within existing settlements can often make a useful contribution to the supply of housing land, but acknowledges the potential conflicts new development can have within the existing built environment. Proposals will be encouraged where they satisfy the criteria set out in the policy in particular criteria a) Infill residential development at a density which represents the most efficient use of the site

while respecting its environs and c) proposals which will improve the character and environment of the area.

- 28 Policies PM1A and PM1B are also of relevance. These policies require proposals to contribute positively to the surrounding built and natural environment and to respect the character and amenity of the place.
- 29 Policy CF2 - Public Access is also applicable. This confirms that developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.
- 30 For reasons set out elsewhere in this report it is considered that this proposal complies with Policies RD1, PM1A, PM1B and CF2 of the LDP.

Design and Layout

Movement

- 31 The importance of movement within the environment is discussed in the Scottish Government's document on Designing Streets: A Policy Statement for Scotland. This notes that: - Providing for movement along a street is vital, but it should not be considered independently of the street's other functions. The need to cater for motor vehicles is well understood by designers, but the passage of people on foot and cycle has often been neglected. Walking and cycling are important modes of travel, offering a more sustainable alternative to the car, making a positive contribution to the overall character of a place, public health, social interaction and to tackling climate change through reductions in carbon emissions.
- 32 From reviewing the letters of objection it is clear that residents from the surrounding area do utilise this site as a connection between Needless Road and Cavendish Avenue. The proposed layout accommodates access by providing a 2.0m wide path in the southern section of the site, opening out to the proposed car parking area then a 3.0m wide shared access northwards onto Cavendish Avenue. The retention of the path link in this application is an improvement compared to the earlier application 15/01716/FLL that lost this connectivity and application 16/01261/FLL where vehicular and pedestrian conflicts arose at the northern end of the site due the proposed second unit.
- 33 It should be noted that this form of path provision is also endorsed by Community Greenspace. Transport Planning also have no objection as the potential conflict between pedestrians and vehicular movements to the rear parking area is removed by the deletion of the second residential unit. However, they do advise that conditional control is required to ensure a pedestrian barrier is provided on Needless Road as well as ensuring the gradient of the new footpath does not exceed a set gradient. Taking this into account I consider that the formation of the new thoroughfare has the

potential to cater for an increase in user types as the current bollard arrangement and topography of the site currently restricts access for some users.

- 34 The design of the boundary and landscaping will be of particular importance on how this space will work and conditional control can be applied to ensure there is appropriate boundary treatment and landscaping is installed.
- 35 I note there are concerns that anti-social behaviour could occur within the rear car parking area. I am not convinced that this would necessarily occur as there would be visibility and supervision from Cavendish Avenue. A curve is also incorporated into the boundary of the proposed plot curtilage increasing visibility when footpath users enter this space from the south.
- 36 I note that representations have raised concern regarding the closure of the path to facilitate construction works. Clearly there is a balance to be struck between public access as well as health and safety. I am in no doubt that the path will need to be closed at some point in the construction phase to facilitate the development. However, depending on construction phasing the length of time it is closed can be minimised. Conditional control can secure a management plan for the site including timescales for the construction of and opening of the footpath as well as information on any temporary footpath diversion required with signage to assist.
- 37 Overall, I consider that the alternative routing included in this application is a suitable alternative form of provision that complies with the requirements of Policy CF2.

Design and density

- 38 Through Designing Places (November 2001) Scottish Ministers have signalled the importance they attach to achieving improvements in the design and quality of new development, and bringing long-term benefits to the urban and rural environment. It should be noted that good design should be the aim of everyone in the planning and development process, it is important at all scales of development. Ill-conceived and poorly designed development is not in the public interest, as mistakes cannot be easily or cheaply rectified. An important outcome of the planning process is the quality of development on the ground.
- 39 There is a steady rhythm of housing along Needless Road. I consider the infill of the proposed southern house, although not semi-detached like the existing properties does generally compliment this rhythm. It also respects the existing street building lines. I note that concerns have been expressed in letters of representation regarding the house design but I am of the view that the dwelling will not conflict with the streetscape. Conditional control can secure a detailed specification of materials.

- 40 The proposal is required to take account of the character and density of the area. In this case the southern house plot has been increased in size with the parking area being located next to the substation. This generally correlates with neighbouring plot lengths.
- 41 Overall I consider the proposal does not conflict with the placemaking policies PM1A/ PM1B of the local plan and RD1: Residential Areas.

Landscape

- 42 Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscape. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross. In this case the formation of a residential development on this site, within the settlement boundary, is not considered to erode the quality of this urban area. Representations have raised concerns with the loss of open space. In this case the grassed area to the north is outwith the application site.
- 43 While there is a small greenspace to the front of the site on Needless Road this will be incorporated into the proposed curtilage of the dwelling and a condition can ensure landscaping proposal for the site come forward. I do not consider that the loss of the hardstanding area in front of the existing garages would conflict with Policy CF1. As already noted under the Design and Layout assessment, conditions will secure a scheme of landscaping as well as boundary treatment.

Residential Amenity

- 44 Letters of representation highlight concern that there will be an unacceptable loss of residential amenity to surrounding residential dwelling. It is worthwhile noting that the existing site, garage lock ups, already has vehicle movements along the side boundaries of neighbouring properties. Taking these site circumstances into account and the potential reduction in vehicles associated with the existing 12 garage lockups, I do not consider vehicle movements to the house will be detrimental to neighbouring dwellings.

Impacts on adjoining properties

- 45 The formation of residential development has the potential to result in overlooking and overshadowing to neighbouring dwellings and garden ground. There is a need to secure privacy for all the parties to the development those who would live in the new dwellings, those that live in the existing house and those that live in adjoining dwellings. Planning control has a duty to future occupiers not to create situations of potential conflict between neighbours.

- 46 I note there are privacy and overlooking concerns expressed in the letters of representation. From my review of the submitted plans and site inspection I do not consider that there will be any overlooking from the proposed property at Needless Road end of the site subject to the provision of obscure glazing being incorporated into the toilet and stairwell window on the east elevation. Whilst the realignment of the footpath will bring this closer to number 63 Needless Road I do not consider this will result in an adverse impact on amenity given the re-contouring of the site in this area and the conditional control to secure landscaping.

Overshadowing

- 47 Although overshadowing is not a matter specifically referred to in ministerial guidance, the protection of neighbouring developments from unreasonable loss of light is a well-established proper planning consideration. Having had the opportunity to assess the plans an element of overshadowing will likely occur to the neighbouring properties garden ground. This will occur in the morning to the properties to the west and in the evening to the properties in the east. The extent of overshadowing to the neighbouring garden is not excessive.

Private Amenity Space

- 48 The extent in which private amenity space is used relates specifically to the occupants of the dwelling. It is therefore particularly difficult to forecast the extent of garden ground required and ultimately overtime this will change with any new inhabitant. Nevertheless it is important to seek an outside area that can perform the minimum to be expected of a garden i.e. clothes drying, dustbin storage and sitting out. Approximately 200sqm of private rear amenity space is proposed for the proposed dwelling. In this case I consider an adequate level of private (rear) amenity space is provided to perform the minimum expected of a garden ground taking account of the proposed dwelling type.

Roads and Access

- 49 Policy TA1B is concerned with providing safe access and appropriate car parking. Representations have raised concerns with the loss of parking as well as the potential impact the development will have on road safety and traffic congestion. Transport Planning has been consulted and they offer no objection. Their comments on the new footpath specification and pedestrian barrier have already been considered under the design and layout section of this report.
- 50 I am satisfied that two car parking spaces can be formed within the site for the proposed dwelling. I also note that the existing vehicular access into the site is also increased in width.

- 51 Consultation from Street Lighting has confirmed that there is no requirement for street lighting associated with this proposal. However, the applicant has confirmed that it is not his intention to remove the existing street lighting infrastructure that is already within the site. There is no conflict with Policy TA1B.

Drainage and Flooding

- 52 The applicant has confirmed that the foul drainage will be connected to the public sewer and a condition can be imposed to ensure this connection is achieved. A developer would need to secure a connection from Scottish Water and if there is a capacity problem this is a matter between the developer and network operator to resolve prior to development proceeding on the site.
- 53 The site is not in an area subject to river flooding. Disposal of surface water should be via a sustainable urban drainage system and this would need to be incorporated into the site layout to comply with policy EP3C and this can be controlled by condition.

Developer Contributions

Primary Education

- 54 The Council 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, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity. This proposal is within the catchment of Craigie Primary School, where there is a capacity constraint. A contribution of £6,460 is therefore required.

Transport Infrastructure

- 55 The Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth, Transport Infrastructure. A contribution of £3,549 is required.
- 56 The applicant has intimated that they would look to pay all the contributions upfront rather than enter a legal agreement.

Pollution

- 57 I do not consider that light pollution from the dwelling would be particularly adverse and as noted above the applicant intends to retain the existing street lighting.
- 58 I do not consider this proposal will have an adverse impact on air quality within the immediate vicinity of the site. The transport infrastructure contribution which is associated with road infrastructure projects looks to contribute to alleviating air quality issues within the AQMA. Accordingly I do not consider there is a conflict with air quality if the Transport Infrastructure Contribution is secured.

Economic Impact

- 59 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

LEGAL AGREEMENTS

- 60 None required if contributions paid upfront to release consent.

DIRECTION BY SCOTTISH MINISTERS

- 61 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

- 62 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is considered the proposal complies with the relevant provisions of the adopted plan. There are no material considerations that would justify departing from the LDP. On that basis the application is recommend for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 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 commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the occupation or bringing into use of the development, whichever is the earlier.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 3 Prior to the commencement of the development hereby approved, details of the proposed boundary treatments for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme as subsequently agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 4 Prior to the development hereby approved being completed or brought into use, the new vehicular access arrangement shown on the approved drawings shall be implemented and thereafter retained.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Prior to the development hereby approved being completed or brought into use, the car parking facilities shown on the approved drawings shall be implemented and thereafter maintained.

Reason - In the interests of road safety; to ensure the provision of adequate off-street car parking facilities.

- 6 Prior to the development hereby approved being completed or brought into use, the gradient of the new footpath to the east of the site shall be formed and not exceed 10% for the entire length of the footpath.

Reason - To ensure the provision of an adequate gradient of access to the footpath.

- 7 Prior to the commencement of development details and the precise location of the pedestrian barrier to be installed next to the junction of the new footpath and Needless Road shall be submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the pedestrian barriers shall be installed in accordance with the approved details and prior to the occupation of the dwelling house.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 8 Prior to the commencement of the development hereby approved, a management plan indicating any temporary footpath diversions and signage needed to facilitate the development shall be submitted for the further agreement of the Council as Planning Authority. The plan as agreed shall be implemented in accordance with the timings identified in the plan.

Reason - To set out and manage access arrangements around the site in the interests of public safety.

- 9 The foul drainage for the development shall be drained to the public mains sewerage system.

Reason - To ensure appropriate drainage arrangements are installed thereby ensuring compliance with policy EP3B of the Local Development Plan 2014.

- 10 Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.

Reason - To ensure the provision of effective drainage for the site.

- 11 The windows in the east elevation of the development hereby permitted shall be glazed in obscure glass and thereafter obscure glass shall be retained at all times.

Reason - To prevent overlooking and protect the amenity of adjoining residents in accordance with policy RD1 of the Local Development Plan 2014.

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

- 1 No consent shall be issued until the payment of a commuted sum towards education provision of £6460 and £3549 towards Roads Infrastructure (Total £10 009) has been secured through either an upfront payment or a Section 75 Legal Agreement has been agreed between the applicant and the Council.
- 2 Consistent with procedural note 1, the formal planning consent shall not be issued until such time as the required commuted sum for Developer Contributions has been secured. In the event that the applicant does not a) make the required payment upfront within 14 days of the date of the committee decision or b) complete a legal agreement for its delayed payment within a 4 month period, the application may be refused under delegated powers.

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 The applicant is advised that the granting of planning permission does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 6 For information, foul flows only will be allowed to discharge to the public system. The Developer should arrange to dispose of surface water privately, to the satisfaction of the statutory drainage Authority.
- 7 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from www.pkc.gov.uk and should be returned to snn@pkc.gov.uk
- 8 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.

Background Papers:	Twenty-five letters of representation.
Contact Officer:	John Russell – Ext 75346
Date:	5 May 2017

NICK BRIAN
Interim Head of Planning

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