

<p>TCP/11/16(221) Planning Application 12/01323/IPL – Erection of dwellinghouse on site north of Flowerdale Cottage, Rhynd</p>
--

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

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

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

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

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

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name **MS ELIZABETH CAMERON**

Address **C/O AGENT**

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name **BIDWELLS**

Address **S ATHOLL PLACE**

PERTH

Postcode **PH1 5NE**

Contact Telephone 1 **01738 494 125**

Contact Telephone 2 **01738 630 666**

Fax No

E-mail* **steven.comper@bidwells.co.uk**

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

Yes ☒ No ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority

PERTH AND KINROSS COUNCIL

Planning authority's application reference number

12/01323/IPL

Site address

SITE NORTH OF FLOWERDALE COTTAGE, RHIND

Description of proposed development

ERECTION OF DWELLING HOUSE

Date of application **31 JULY 2012**

Date of decision (if any) **18 OCTOBER 2012**

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

Nature of application

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

Reasons for seeking review

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

Review procedure

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

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

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

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

Site inspection

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

- | | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
|--|---|-----------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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

N/A

Statement

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

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

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

PLEASE SEE ATTACHED STATEMENT

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

Yes

☐

No

☒

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

List of documents and evidence

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

1. REVIEW STATEMENT
2. REPORT OF HANDLING AND DECISION NOTICE
3. APPLICATION PLANS
4. EXAMPLES OF RECENT PKC DECISIONS

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

Checklist

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


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

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

Declaration

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

Signed



Date

28-11-2012

BIDWELLS

Planning Appeal Statement

**Land at Orchardneuk, Perth
November 2012**



Table of Contents

1	Introduction	1
2	Background	1
3	Site Description	2
4	Grounds for appeal	2
5	Conclusion	8

1 Introduction

This appeal is submitted on behalf of Mrs Elizabeth Cameron in respect of Perth and Kinross Council's refusal of planning application 12/01323/IPL for the erection of a dwellinghouse at land north of Flowerdale Cottage, Orchardneuk, near Perth.

The application was refused under delegated powers on 18 October 2012. The reasons given for the refusal were:

- i The proposal is contrary to Policies 12 of Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000) which states that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.
- ii The proposal is contrary to Policy NE5 of the Proposal Local Development Plan 2012 as it involves the development of housing in the countryside. The Housing in the Countryside Policy does not apply in the Green Belt. The proposal also fails to meet any of the criteria or development types which may be allowed within the Green Belt.

This statement will set out Mrs Cameron's grounds for appealing by addressing those reasons in light of development plan policy and relevant material considerations.

2 Background

The application was submitted to Perth and Kinross Council on 18 July 2012. The application was supported by a planning statement, setting out the planning policy justification for the proposal, and a series of sketch drawings, site plans and a location plan to illustrate indicatively how the development may look.

The application was submitted following a number of approvals issued by Perth and Kinross Council for similar developments in the locality, mainly around Kinfauns. Whilst the issue of 'precedence' is considered a grey area in planning terms, Circular 6/1990 makes it quite clear that the planning authority must take account of "relevant precedents of which the planning authority were aware". These similar cases were highlighted in the supporting information.

The application was developed to take account of the site history and address the concerns that had been raised previously.

3 Site Description

The application site is located to the north of Flowerdale Cottage and the south of Tayview Cottage within a cluster of five houses at Orchardneuk. The cluster lies approximately 1.5km to the east of Perth on the southern side of the River Tay. The site is bounded by the local access road to the west and an agricultural field to the east.

The site extends to some 0.1ha and occupies sloping land that falls away from the road down towards the field and the River Tay and is irregular in shape

The immediate surrounds are low density residential in character set in a largely agricultural landscape with interspersed groups of development including the large sewage treatment works, a coach works (both accessed from the same local access road), various agricultural buildings, a gas main, and other housing clusters.

4 Grounds for appeal

A justification for the proposed development is set out in the planning statement that accompanied the planning application. It is not the intention of this appeal statement to replicate the earlier statement, which is included in the appeal papers. There is some overlap however in response to the first reason for refusal, which is unavoidable.

Sections 25 and 37 of the Town and Country Planning (Scotland) Act, as amended, requires that determinations made under the Act such as a planning application or an appeal, shall be made in accordance with the provisions of the development plan, unless material considerations indicate otherwise.

The development plan comprises the Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000) and TAYplan, the strategic development plan. The new Local Development Plan is scheduled to be sent to the Scottish Ministers for Examination early in 2013. There are a large number of outstanding objections and as such it carries limited weight. This is evidenced by recent appeal decisions issued by the Directorate for Planning and Environmental Appeals which have either not referred to the Proposed LDP or considered it to be premature as a basis for decision making. Material considerations include statements of Scottish Government Policy set out in the SPP, Planning Advice Notes and Circulars, and Perth and Kinross Council's Housing in the Countryside Policy.

Orchardneuk is not defined by any settlement boundaries. Accordingly the application site lies in the Countryside area. It is also within the Area of Great Landscape Value. The Proposed Local Development Plan is tasked with establishing the boundaries for a Green Belt. The site lies within the Proposed Green Belt area, but the precise boundaries are subject to outstanding objections and cannot be finalised until the Examination findings are reported.

Accordingly, the Housing in the Countryside Policies are relevant. The Council's SPG is the most up to date and relevant policy, although both the adopted Local Plan and the SPG offer support for infill development and development within building groups providing that the development does not detract from the character or amenity of the existing group, does not constitute ribbon development and a suitable landscape framework is in place. This justification is explicitly covered in the Supporting Statement submitted with the application and will not be repeated here.

In the Report of Handling, the Officer states that the site "can be considered an infill site". The Report also agrees that site meets the criteria listed for this category subject to detailed design. The Report states that the Officer does "not consider this proposal to result in ribbon development" and does not "consider an infill or gap site to constitute undesirable ribbon development as ribbon development is more commonly attached to proposals which extend an already linear building pattern as opposed to development within it". The case officer concludes by stating he considers "the landscape setting of the site to be acceptable".

It is therefore considered that the fact that the proposal accords with the Housing in the Countryside Policy is accepted. There is no conflict with Housing in the Countryside Policy outlined in the reasons for refusal.

Accordingly the key issues are the AGLV designation, and emerging Policy Proposals for a Green Belt in the locality.

The first reason for refusal states:

"The proposal is contrary to Policies 12 of Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000) which states that there will be presumption against built development within the AGLV designation, except for development necessary for operational need."

The purpose of the AGLV is to protect the landscape setting of Perth. In several recent decisions, Perth and Kinross Council has taken a view that built development within the AGLV should not automatically be considered unacceptable due to the lack of operational need. The landscape characteristics and landscape and visual impact, and overall impact on the purpose and integrity of the AGLV must be considered.

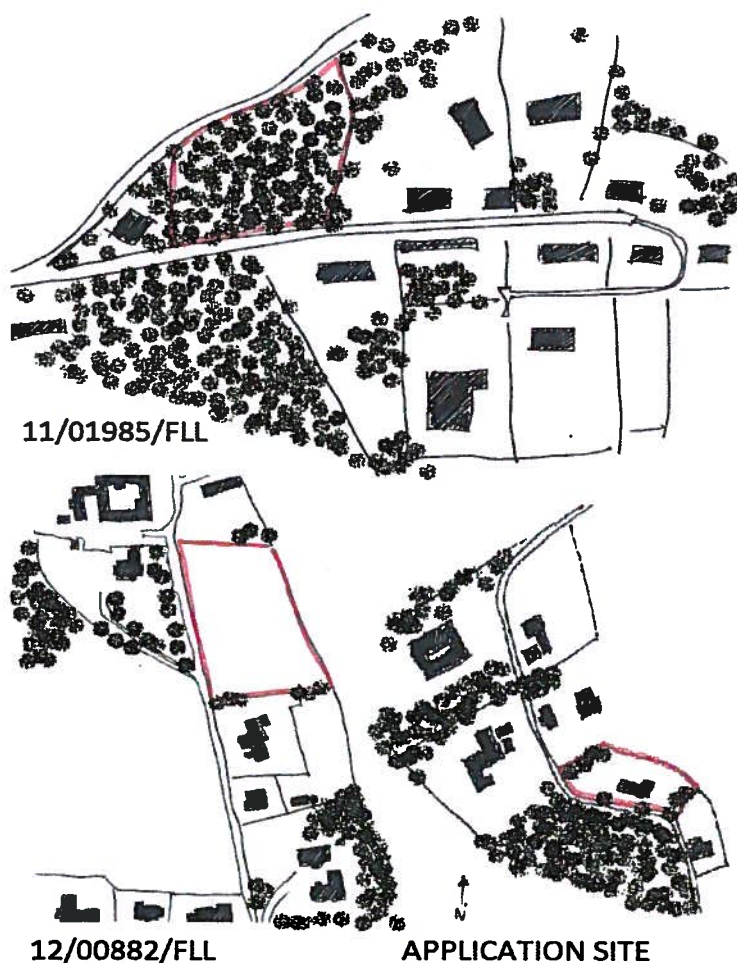
Indeed, the Report of Handling states:

"This site is well contained by housing on its north and south sides. To the west of the site there is a large area of mature woodland which provides a backdrop to the site. The field boundaries to the east beyond the site also contain trees as does the road boundary to the north beyond Riverside Cottage. These trees provide the small grouping and the application site with a well established landscape setting particularly in longer views from the north side of the River Tay. Clearly the design and scale of the house will be a key consideration, however this can be considered at the detailed planning stage. Although no details of the proposed house type (or ridge levels) have been submitted, it is my view that a suitably designed dwelling would have little adverse impact on the landscape character of the AGLV nor would development of this site result in a significant adverse visual impact."

As the Report of Handling notes: "the general view in respect to landscape setting expressed above has been endorsed at Development Management Committee on other similar sites within the AGLV on applications consented in 2011 and 2012." Examples of these cases are set out in the Supporting Statement and include:

- 12/00882/FLL: Erection of two dwelling houses at Land 80 Metres South East of Over Kinfauns Farm Church Road, Kinfauns
- 11/01985/FLL: Erection of a dwelling house at Land 60 Metres West of Greenwood, Kinfauns
- 11/01986/FLL: Erection of a dwelling house at Land 100 Metres North East of Eastwood, Kinfauns
- 08/00398/OUT: Erection of a dwelling house (in outline) at Kinfauns Castle Hotel, Kinfauns, Perth PH2 7JZ

Planning application 08/00417/OUT was granted at appeal by the Scottish Ministers following PKC's refusal to grant planning permission. There is substantial evidence of similar approvals over the last 18 months. The image below demonstrates the similarities between those cases and the appeal site.



The proposed dwelling may not have an operational requirement for its countryside location. However, the dwelling complies with the Housing in the Countryside Policy. Furthermore, the Report acknowledges that the dwelling will have minimal impact on the landscape character of the AGLV. Accordingly the development would not compromise the purpose or integrity of the AGLV designation. Therefore the development would cause no demonstrable harm to the AGLV.

Therefore, in line with the Council's most recent position on development within the AGLV, and also a view taken at recent appeal cases, non-compliance with Policy 12 on grounds of lack of operational need, is outweighed by the fact that the development would not compromise the integrity or purpose of the AGLV due to the site's landscape setting and framework. Accordingly, Policy 12 of the adopted Local Plan is not considered to be a reason for the refusal of this proposal.

This leaves the issue of the Proposed Green Belt as the outstanding issue. The second reason for refusal stated:

"The proposal is contrary to Policy NE5 of the Proposal Local Development Plan 2012 as it involves the development of housing in the countryside. The Housing in the Countryside Policy does not apply in the Green Belt. The proposal also fails to meet any of the criteria or development types which may be allowed within the Green Belt."

The requirement for a Perth Green Belt is set out in TAYplan. It is for Perth and Kinross Council to identify the precise Green Belt boundaries through the adoption of its Local Development Plan. TAYplan indicates the purpose of the Green Belt:

- continuing to designate green belt boundaries at both St. Andrews and Perth to preserve their settings, views and special character including their historic cores; assist in safeguarding the countryside from encroachment; to manage long term planned growth including infrastructure in this Plan's Proposals Map and Strategic Development Areas in Policy 4; and define appropriate forms of development within the green belt based on Scottish Planning Policy;
- using Perth green belt to sustain the identity of Scone, and provide sufficient land for planned development around key villages and settlements.

The SPP confirms that "Local development plans should establish the detailed boundaries of the green belt and identify types of development which are appropriate within the green belt." (para. 161)

Paragraph 159 confirms that "Green belt designation should provide clarity and certainty".

There are two key themes emerging from the SPP. First of all it is clear that Green Belts are established through *Adopted* Development Plans, not *Proposed* Development Plans. The second theme confirms this which is the matters of *clarity* and *certainty*.

At this stage there can be no clarity or certainty over Green Belt policy or boundaries as there are outstanding objections to the Proposed Local Development Plan. It will only be through the Local Development Plan Examination Process, which at this stage has not set date that these matters will be resolved.

The Development Management Committee approved planning application 12/00882/FLL (see above) in August 2012. The site also lies within the Proposed Green Belt. The Development Management Committee also resolved to approve 19 houses adjacent to St Mary's Monastery, Perth (12/00008/FLM) in October 2012 - also a site within the Proposed Green Belt. The Local Development Plan is no nearer adoption now than it was when those decisions were taken.

These decisions are material in the assessment of this case. Whilst each application has its own individualities and merits, Circular 6/1990 confirms that planning authorities must take account of similar precedents.

However, notwithstanding those decisions, the fundamental issue is the weight that can be afforded to Policy NE5 of the Proposed Local Development Plan. Policy NE5 seeks to restrict new build development to that which is essential for forestry, horticulture or agriculture that is appropriate to the Green Belt. The housing in the countryside policy does not apply within the Green Belt.

Sections 25 and 37(2) of the Act require planning authorities to make determinations in accordance with the provisions of the development plan, unless material considerations indicate otherwise.

As stated above, the development plan comprises the 1995 Local Plan and TAYplan. There are no Green Belt boundaries and no Green Belt policies in the current Development Plan. Therefore, the decision on the proposal assumes that the Proposed Local Development as a material consideration carries more weight than the adopted development plan.

However, the decision takes no account of the fact that there are outstanding objections to the Green Belt boundaries and policy, which means that very little weight can be attached to the Proposed Green Belt policy as a material consideration. The *Watson v Renfrew District Council* (1995) case shows that if a planning authority is to prejudge the outcome of an Examination in taking a decision on an application, as PKC has done in this case, it must justify itself by taking full account of the objections and representations to the Proposed LDP in reaching its decision.

The Report of Handling makes no reference to the outstanding objections to the Proposed Local Development on the issue of the Green Belt and therefore has taken no account of those factors in reaching the decision.

These issues will only be properly considered during an Examination, and until such a time Policy NE5 carries insufficient weight to base sound development management decisions, far less sustain a reason for refusal.

5 Conclusion

In summary, the application was refused on two grounds. Firstly for perceived non-compliance with Policy 13 of the adopted Local Plan, and secondly on the basis of non-compliance with a Proposed Policy set out in the Proposed Local Development Plan that seeks to protect a Proposed area that may become Green Belt following the LDP examination.

This statement, and the accompanying statement submitted in support of the planning application demonstrate that the proposed development is in accordance with the Council's Housing in the Countryside Policy.

The statements also confirm that the refusal based on non-compliance with Policy 13 of the adopted Local Plan is wholly inconsistent with recent decisions issued by the Council and recent planning appeal decisions, a fact acknowledged in the Report of Handling.

The Report states that the site's characteristics and landscape setting are reasons for finding the proposal acceptable, despite it being contrary to Policy 13. For the application to then be refused on the basis of non-compliance with Policy 13 is both confusing and misleading.

Finally, in refusing the application based on the Proposed Local Development Policy, the Council have effectively prejudged the outcome of the Local Development Plan examination, without giving any due consideration to unresolved objections in the assessment of the application.

Accordingly the Proposed Plan carries such limited weight as a material consideration it cannot be considered sufficient to justify the refusal of a planning application.

Mrs Cameron therefore respectfully requests that this appeal is allowed.

REPORT OF HANDLING DELEGATED REPORT

Ref No	12/01323/IPL
Ward No	N9- Almond And Earn

PROPOSAL: Erection of dwellinghouse

LOCATION: Site North Of Flowerdale Cottage Rhynd

APPLICANT: Ms Elizabeth Cameron

RECOMMENDATION: REFUSE THE APPLICATION

SITE INSPECTION: 10 September 2012



OFFICERS REPORT:

Permission in principle is sought for the erection of a dwellinghouse on a sloping site between two properties at Rhynd. The site sits to the south of the River Tay and is bound to its north and south by existing residential properties, to the west by a minor public road and to the east by open fields. There is some history to this site. Outline planning consent was refused in 2008 (08/02277/OUT) as the proposal was considered contrary to Policy 1, 12 and 32 of the Perth Area Local Plan and to the Housing in the Countryside Policy 2005. An appeal against this decision was

dismissed in August 2009. Since that decision the Housing in the Countryside Policy was amended in 2009 and the Council's Proposed Local Development Plan 2012 is now a material consideration. There have also been various decisions on other sites within the AGLV which are referred to in the applicant's submission and elsewhere in this report.

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. 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. The most relevant policies of the Perth Area Local Plan 1995 are listed within this document. The Council's Proposed Local Development Plan 2012 is a relevant material consideration in this instance. The applicant has submitted a statement in support of the application which considers revisions made to policy and other recent decisions on sites within the AGLV. The previous decision and appeal dismissal on this site are material considerations as are the recent decisions made on sites elsewhere in the AGLV.

Principle

The aim of both the HICPs as contained in the Local Plan and the revised 2009 Policy is, in broad terms to facilitate the opportunity for the erection of new dwellings in rural areas within either existing groups of buildings or logical infill sites between established landscape features, or for conversions / replacement of redundant domestic or non-domestic buildings, which may allow for slightly higher numbers of dwellings to be supported. Both the Local Plan version of the HICP and the 2009 version offer support in principle for infill opportunities within existing building groups, providing that the proposal does not detract from the character or amenity of the existing group and that a suitable landscape framework is place.

Housing in the Countryside Policy 2009 allows for development on infill sites in gaps between established houses subject to certain criteria. This application site sits on sloping land between two existing residential dwellings and in general can be considered an infill site. The criteria states that the plot should be of similar size to neighbouring plots, which it is, and that the full extent of the gap should be included within the new plot, which it is. The other criteria relate to the detailed design of the proposal and that can only be assessed at the detailed planning stage. Despite the decision on the previous application I do not consider this proposal to result in ribbon development. Within both the Local Plan and the 2009 versions of the HICP, ribbon development is specifically mentioned as a form of development which will not be supported. The previous decisions on this site considered this proposal to result in undesirable ribbon development. I do not consider an infill or gap site to constitute undesirable ribbon development, as ribbon development is more commonly attached to proposals which extend an already linear building pattern as opposed to development within it.

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

AGLV

As outlined within the HICP in areas where other particular constraints apply, the policies specific to these areas must also be complied with. In this instance the site is located within an Area of Great Landscape Value. Policy 12 of the PALP is directly relevant. Policy 12 states that there will be a presumption against build development within the AGLV unless there is a proven operational need. The explicit nature of Policy 12 of the PALP renders the proposal contrary to the Local Plan, due to it being unrelated to operational need. However, in my opinion, similar to other recent decisions within the AGLV the characteristics of the site should be included as a material consideration which must be fully considered before simply refusing the proposal based on the fact that it lies within the AGLV. This site is well contained by housing on its north and south sides. To the west of the site there is a large area of mature woodland which provides a backdrop to the site. The field boundaries to the east beyond the site also contain trees as does the road boundary to the north beyond Riverside Cottage. These trees provide the small grouping and the application site with a well established landscape setting particularly in longer views from the north side of the River Tay. Clearly the design and scale of the house will be a key consideration, however this can be considered at the detailed planning stage. Although no details of the proposed house type (or ridge levels) have been submitted, it is my view that a suitably designed dwelling would have little adverse impact on the landscape character of the AGLV nor would development of this site result in a significant adverse visual impact. I fully appreciate that the Council have refused planning applications within the AGLV over the years, and have been extremely successful in defending related appeals. However the majority of these have been on isolated sites with a lack of landscape framework. I do not agree with the Scottish Government Reporter's view that development of this site would be prominent in the landscape and feel an appropriately designed house, built into the hillside, could be accommodated without detriment to the area given the well established landscape framework. I therefore consider the proposal to be contrary to the AGLV policy, but consider the site characteristics and good landscape setting as a reason for finding this proposal supportable, contrary to the Development Plan. It should also be noted that the general view in respect to landscape setting expressed above has been endorsed at Development Management Committee on other similar sites within the AGLV on applications consented in 2011 and 2012.

However, under the Proposed Local Development Plan (PDLP) 2012 this site is designated as green belt land. Policy NE5 of the PDLP specifically states that the Housing in the Countryside Policy does not apply in the Green Belt. The policy restricts development within the green belt unless it meets certain criteria or development type which this proposal does not meet. Whilst I feel this application can be supported for the reasons outlined in earlier paragraphs, Policy NE5 of the PDLP is a material consideration in this instance and given that this is an example of future Council policy and following discussions with the Council's Forward Planning Team the application is to be recommended for refusal. The presence of policy NE5 is therefore a key material consideration in the assessment of this application and in my view outweighs material considerations regarding landscape and site characteristics and previous decisions which are referred to above.

Visual Impact

The site is visible from some roads around the application site, however these are minor roads. The site is visible from the north side of the River Tay, particularly from higher ground and therefore may be visible from some sections of the A90 trunk road. However the new house would be viewed in the context of an existing building

+ group and well established landscape setting and provided the dwelling is suitably designed (perhaps being split levelled to take account of the sloping site) there will be limited adverse visual impact on the area. An indicative design for the house has been submitted with this proposal and whilst some aspects of the proposal are welcomed, my preference would be for the house to be split level to reduce its visual impact.

One letter of representation raises concerns regarding the impact the proposed house would have on the outlook and views from the property to the south of the application site, however this has since been withdrawn. The loss of a view is not a material planning consideration. In any case the application site sits at a much lower level than the house to the south and therefore any views from Flowerdale Cottage are likely to over the proposed house and beyond towards the River Tay and are therefore not likely to be unduly restricted. Nevertheless the application is to be recommended for refusal on policy grounds.

Impact on Residential Amenity

Even acknowledging the natural slopes of the site, it is likely that the distances from neighbouring dwellings will go some way to limit the potential impact that the proposal will have on the existing, adjacent residential properties, in terms of direct overlooking, loss of privacy or loss of sunlight. This could be controlled through any detailed design in respect to the position of the dwelling on the site and window positions. Nevertheless the application is to be recommended for refusal on policy grounds.

Education

As this planning application is for a residential development in principle, an appropriately worked condition should be attached if any consent is granted at the Local Review Body to ensure any approval given to complies with the Education Contributions policy.

Access

Access to the site will be from the west. Transport Planning have offered no objection subject to a condition.

Drainage

The proposal is to connect the public drainage system in the area.

Conclusion

The presence of recent planning decisions within the AGLV are material considerations in this re-assessment. In the context of the AGLV the site has well established landscape boundaries and sits between two properties as part of a wider building group and I consider this landscape setting and the recent decisions in the AGLV to be key considerations in this assessment. However the more up to date green belt policy NE5 of the PDLP specifically excludes development of housing in the green belt and therefore the proposal is contrary to that policy. The presence of this PLDP policy is also a significant material consideration which is considered to outweigh the material considerations referred to elsewhere in this report. The

proposal is therefore contrary to Policy 12 of the Perth Area Local Plan 1995 and Policy NE5 of the PLDP.

NATIONAL GUIDANCE

Scottish Planning Policy 2010

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

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

DEVELOPMENT PLAN

Tayplan: Strategic Development Plan 2012-2032

DEVELOPMENT PLAN

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

Policy 1 Perth Area general policies

Developments in the landward area, as shown in Proposals Map A on land which is not identified for a specific policy, proposal or opportunity will generally be restricted to agriculture, forestry or recreational and tourism projects and operational developments including telecommunications development for which a countryside location is essential. Developments will also be judged against the following criteria:-

The site should have a good landscape framework within which the development can be set and, if necessary, screened completely.

In the case of built development the scale, form, colour and design of development should accord with the existing pattern of building.

The development should be compatible with its surroundings in land use terms and should not cause unacceptable environmental impact.

The local road network should be capable of absorbing the development and a satisfactory access onto that network provided.

Where applicable, there should be sufficient spare capacity in local services to cater for the new development.

The site should be large enough to accommodate the development satisfactorily in site planning terms.

The need to accommodate development as part of the ongoing requirements of existing commercial land uses in the countryside

Policy 12 Perth Area Areas of Great Landscape Value

There will be presumption against built development within the AGLV, except for development necessary for operational need. Applications for radio or other masts on hill tops within the AGLV will only be permitted in the most exceptional circumstances having regard to the provisions of Policy 3, preference will be given to locations on Kirkton Hill.

Policy 32 Perth Area Housing in the Countryside

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

Note: Details of the Housing in the Countryside Policy (revised May 1994) are contained in Annex 1.

Perth and Kinross Proposed Local Development Plan 2012

On the 30 January 2012 the Proposed Plan was published. 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. It has recently undergone 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.

Policy NE5: Green Belt is most relevant to this application

OTHER POLICIES

Housing in the Countryside Policy 2009

A revised Housing in the Countryside Policy was approved by the Council in 2009. The policy applies over the whole local authority area of Perth and Kinross except where a more relaxed policy applies at present. In practice this means that the revised policy applies to areas with other Local Plan policies and it should be borne in mind that the specific policies relating to these designations will also require to be complied with. The policy aims to:

- Safeguard the character of the countryside;
- Support the viability of communities;
- Meet development needs in appropriate locations;
- Ensure that high standards of siting and design are achieved.

Planning Guidance Note: Primary Education and New Housing Development 2009

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

SITE HISTORY

08/02277/OUT Erection of a dwellinghouse (in outline) 21 January 2009 Application Refused and dismissed on appeal

CONSULTATIONS/COMMENTS

Education And Children's Services	Condition applied
Scottish Water	No objection
Transport Planning	No objection subject to condition
Dave Stubbs - Access Officer	No response within statutory period
Perth And Kinross Area Archaeologist	Condition attached

TARGET DATE: 30 September 2012

REPRESENTATIONS RECEIVED: No

Number Received: None

Summary of issues raised by objectors:

Response to issues raised by objectors:

Additional Statements Received: Not required

Environment Statement Not required

Screening Opinion Not required

Environmental Impact Assessment Not required

Appropriate Assessment Not required

Design Statement or Design and Access Statement	Not required
Report on Impact or Potential Impact eg Flood Risk Assessment	Not required
Legal Agreement Required:	Not required
Summary of terms	Not required
Direction by Scottish Ministers	Not required

Reasons for Refusal:-

- 1 The proposal is contrary to Policies 12 and 32 of Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000), both of which state that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.
- 2 The proposal is contrary to Policy NE5 of the Proposal Local Development Plan 2012 as it involves the development of housing in the countryside. The Housing in the Countryside Policy does not apply in the Green Belt. The proposal also fails to meet any of the criteria or development types which may be allowed within the Green Belt.

Justification

- 1 The proposal is considered contrary to the Proposed Local Development Plan 2012 and this is considered to outweigh other material considerations including the presence of approved applications in the local area.

Notes

None

PERTH AND KINROSS COUNCIL

Ms Elizabeth Cameron
c/o Bidwells
FAO Steven Cooper
5 Atholl Place
Perth
PH1 5NE

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 18th October 2012

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **12/01323/IPL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 31st July 2012 for permission for **Erection of dwellinghouse Site North Of Flowerdale Cottage Rhynd** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposal is contrary to Policies 12 of Perth Area Local Plan 1995 (Incorporating Alteration No1 Housing Land 2000) which states that there will be presumption against built development within the AGLV designation, except for development necessary for operational need.
2. The proposal is contrary to Policy NE5 of the Proposal Local Development Plan 2012 as it involves the development of housing in the countryside. The Housing in the Countryside Policy does not apply in the Green Belt. The proposal also fails to meet any of the criteria or development types which may be allowed within the Green Belt.

Justification

The proposal is considered contrary to the Proposed Local Development Plan 2012 and this is considered to outweigh other material considerations including the presence of approved applications in the local area.

Notes

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

Plan Reference

12/01323/1

12/01323/2

12/01323/3

BIDWELLS

Planning Statement

Land at Orchardneuk

July 2012



Table of Contents

1	Introduction.....	1
2	The Application Site	1
3	Statutory Context	1
4	Development Plan and Material Considerations.....	2
5	Assessment	5
6	Conclusion	10

1 Introduction

- 1.1 This statement has been prepared by Bidwells on behalf of Elizabeth Ann Cameron and is submitted in support of the planning application in principle for the development of a single dwelling house on land at Orchardneuk, near Perth.
- 1.2 This statement will justify a planning case for the proposal through assessment of the Development Plan and appropriate material considerations.

2 The Application Site

- 2.1 The application site is located to the north of Flowerdale Cottage and the south of Tayview Cottage within a cluster of five houses at Orchardneuk. The cluster lies approximately 1.5km to the east of Perth on the southern side of the River Tay. The site is bounded by the local access road to the west and an agricultural field to the east.
- 2.2 The site extends to some 0.1ha and occupies sloping land that falls away from the road down towards the field and the River Tay and is irregular in shape.
- 2.3 The immediate surrounds are low density residential in character set in a largely agricultural landscape with interspersed groups of development including the large sewage treatment works, a coach works (both accessed from the same local access road), various agricultural buildings, a gas main, and other housing clusters.

3 Statutory Context

- 3.1 The legislative framework is established by the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 3.2 Section 25 of the Town and Country Planning (Scotland) Act 1997 states that "where, in making a determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise".
- 3.3 Section 37(2) states that in dealing with a planning application "the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."

- 3.4 It follows that the application shall be determined with due consideration given to compliance with the development plan, and other material considerations. Where a proposal complies with the provisions of the development plan, it should be approved unless material considerations of sufficient weight indicate otherwise.
- 3.5 Part 3 Section 5 of the Planning etc (Scotland) 2006 Act inserts a new section 26A into the Town and Country Planning (Scotland) Act 1997 which defines the three categories in the hierarchy of development to which all developments will be allocated:-
- national development;
 - major development; and
 - local development.
- 3.6 In accordance with the criteria set out in Circular 5/2009, this application is categorised as a 'Local Development'.

4 Development Plan and Material Considerations

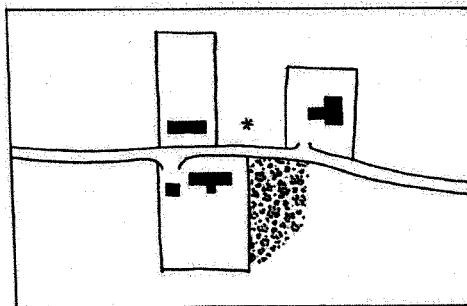
- 4.1 The development plan comprises the new strategic development plan, TAYplan, and the Perth Area Local Plan 1995 as amended by the Housing Land update 2000. The new Local Development Plan (LDP) has progressed to consultation on the Proposed Plan. However, as the LDP may be subject to modification, it carries limited weight.
- 4.2 Material considerations include Scottish Government Policy, Circulars and Advice, Perth and Kinross supplementary guidance, and any relevant planning permission or appeal decision.
- 4.3 The proposal raises no issues of strategic significance.
- 4.4 The application site does not fall within any of the settlements development areas defined in the Perth Area Local Plan and as such lies within the 'countryside'.
- 4.5 Policies 12 and 32 of the Local Plan are relevant to this application.
- 4.6 The site lies within an Area of Great Landscape Value (AGLV). Policy 12 presumes against built development within an AGLV unless it is for an operational need. The overall purpose of the AGLV is to protect the landscape setting of Perth.
- 4.7 Policy 32 states that the Council's District wide policy in housing in the countryside will apply within most of the landward area. The policy of the time (May 1994) is set out in Annex 1 of the Plan.
- 4.8 The 1994 Policy advises that consent will normally be granted only for the erection of individual houses which fall into at least one of the following categories:

- Development zones
- Building groups
- Renovation of abandoned houses
- Replacement of houses
- Conversion of non-domestic buildings
- Operational need

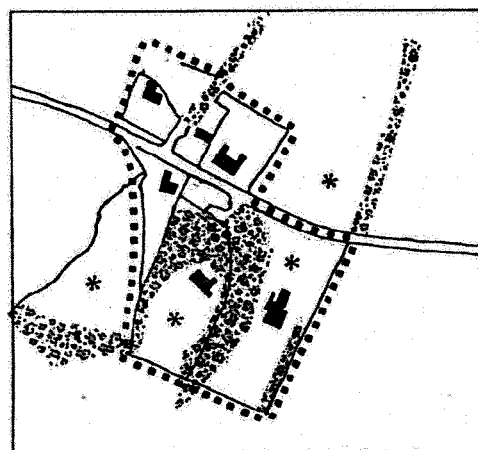
4.9 The plan extract below illustrates what the policy considers to be examples of building group development:

EXAMPLES OF BUILDING GROUPS

(1) DEVELOPMENT WITHIN SMALL GROUP OF HOUSES



(2) DEVELOPMENT WITHIN OR ADJACENT TO LARGER GROUP



KEY:-

Existing House	Existing boundary of group
Trees	New house site

4.10 The Council's most recent statement of policy on housing in the countryside is set out in the supplementary policy of 2009. The 2009 policy applies across the whole of Perthshire although in areas with specific designations/constraints relevant policy must also be applied. The 2009 policy defines six categories against which proposals can be assessed

- Building groups (three or more houses)
- Infill sites
- Houses in the open countryside
- Renovation or replacement of houses
- Conversion or replacement of redundant non-domestic buildings
- Rural brownfield land

4.11 The first two categories are most relevant to this application.

4.12 The introduction of the supplementary policy guidance followed on from a culture change in policy and advice from the Scottish Government. This is confirmed in the latest statement of national policy in the Scottish Planning Policy (SPP). Paragraph 94 states:

4.13 Development plans should support more opportunities for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding.

4.14 Recent planning decisions are also material in the assessment of this application. In the last few years, Perth and Kinross Council has granted planning permission for the following non-operational dwelling houses within the AGLV.

12/00882/FLL | Erection of two dwelling houses | Land 80 Metres South East of Over Kinfauns Farm Church Road, Kinfauns

11/01985/FLL | Erection of a dwelling house | Land 60 Metres West of Greenwood, Kinfauns

11/01986/FLL | Erection of a dwelling house | Land 100 Metres North East of Eastwood, Kinfauns

08/00398/OUT | Erection of a dwelling house (in outline) | Kinfauns Castle Hotel, Kinfauns, Perth PH2 7JZ

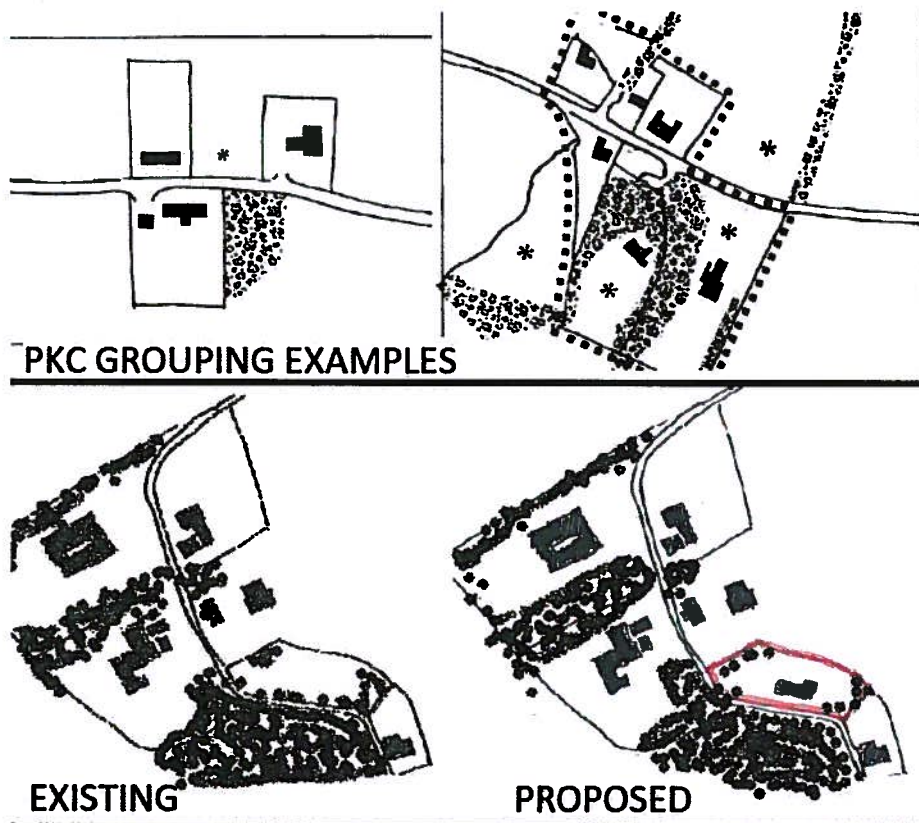
- 4.15 Planning application 08/00417/OUT was granted at appeal by the Scottish Ministers following PKC's refusal to grant planning permission.

5 Assessment

- 5.1 The key determining factor is whether the proposal complies with the provisions of the development plan, and if not, whether there are any material considerations which would justify a departure from the plan.
- 5.2 The Local Plan confirms that the site lies within an AGLV. Policy advises that there is a presumption against development except for development necessary for operational need.
- 5.3 Policy 32 covers housing in the countryside and states:

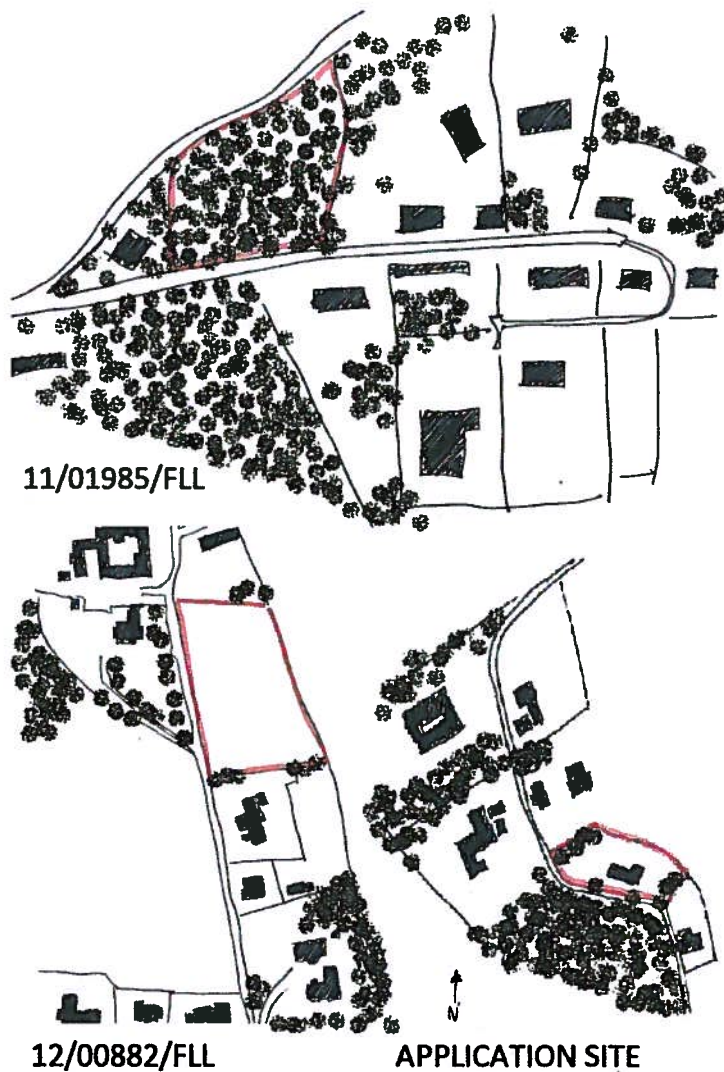
Within Areas of Great Landscape Value, the National Scenic Area and the Historic Gardens and Designed Landscapes there will be a presumption against new houses except on the basis of operational need, but encouragement will be given to the restoration and conversion of buildings to form new houses.
- 5.4 Annex 1 of the Local Plan sets out several categories into which development proposals may be considered acceptable. However as Policy 32 clearly presumes against such development there is a conflict with the adopted Local Plan.
- 5.5 However, the adopted Local Plan is now well out of date. The housing in the countryside policy is some 18 years old and has been superseded by changes in Scottish Government Policy, and most significantly of all by Perth and Kinross' own supplementary policies and guidance.
- 5.6 The key document in this case is the 2009 housing in the countryside policy. This document outlines that in areas where other constraints apply, such as AGLV policy, the policies specific to these areas must also be complied with.
- 5.7 In Policy 12 the Local Plan states that there is a presumption against built development within an AGLV, except for operational need. There is no operational need in this case.
- 5.8 However, one must also take into account the purpose of the AGLV designation in assessing these proposals. In the assessment of planning applications listed in paragraph 4.13 a significant trend has emerged which is material to the assessment of this application.

- 5.9 In all of these cases the assessment and interpretation of Perth and Kinross Council has been that providing that the landscape fabric of the site is suitable and that the development would be compatible with its surrounds and would not erode the special qualities of the AGLV, the proposal can be considered acceptable if it accords with the provisions of the housing in the countryside policy 2009.
- 5.10 Appended to this statement are extracts from each of these planning application reports.
- 5.11 It is considered that the application site quite clearly fits into either Category 1 – building groups, or Category 2 – infill sites of the 2009 policy.
- 5.12 Category 1 defines a building group as at least three or more buildings of a size equivalent to a traditional cottage. Small ancillary buildings such as garages are not classed as buildings in this case.
- 5.13 It is quite clear that the site lies within a group of at least six buildings of a size equivalent to a traditional cottage. The application site lies between three of them. Below is a diagram showing the extracts from the Local Plan definition of building groups (there is no such diagram in the 2009 policy) and the application site.



- 5.14 The policy states that consent will be granted for houses within groups provided that they do not detract from the residential and visual amenity of the group. Consent will also be granted for sites which extend the group into definable sites formed by existing topography or well established landscape features which will provide a suitable setting. All proposals must respect the character, layout and building pattern of the group and demonstrate a high standard of amenity can be achieved for the proposed and existing houses. Development contributing to ribbon development will not be supported.
- 5.15 The site benefits from the topography of the local landform which rises significantly to the rear of the site to Tarsappie Hill providing a strong visual backdrop. This is complemented by existing tree planting and landscaping within and around the application site which ensures that the development of the plot would achieve a sound landscape fit and would knit in well with the existing built form. Drawings 132-02 and 132-03 illustrate this in some detail.
- 5.16 The site is clearly defined by strong boundaries on three sides with neighbouring residential properties to the north and south and the local access road to the west. There is a sharp drop in landform to the north east of the site which again provides distinction from the surrounding area.
- 5.17 Although this proposal is in principle, a concept development scheme has been prepared and submitted in support of this application. The purpose being to demonstrate that the development of the plot will follow and respect the existing development pattern and that it can be accommodated without compromising the visual or residential amenity of the area.
- 5.18 The siting of the house to the west of Flowerdale Cottage and on lower ground means that the proposed dwelling would not obstruct the outlook from Flowerdale Cottage. Neither would the proposed dwelling be exposed to overlooking from Flowerdale.
- 5.19 The position of the proposed house is such that it faces north east towards the River Tay and the Carse of Gowrie. In so doing it follows that it would not overlook the property to the north/north west.
- 5.20 In summary, the proposal demonstrates that the site is within a building group, respects the existing development pattern and does not adversely affect the residential or visual amenity of the area.
- 5.21 The final issue to consider is that of ribbon development. 'Ribbon development' is a bit of an anomaly in planning policy. If a site is an infill site lying between existing properties is it reasonable that it can be considered unacceptable as it creates 'ribbon development'? If that were the case, the infill site category would be defunct.

- 5.22 Ribbon development has been considered an issue on this site in a previous appeal. In the appeal ref. P/PPA/340/779 in 2009, the Reporter considered that although the site could be seen as an infill site, it would contribute to ribbon development. The Reporter does not provide any further consideration or justification of the ribbon development issue.
- 5.23 Looking again at the recent approvals mentioned in paragraph 4.13 there is an apparent inconsistency with the consideration of ribbon development on the application site and land at Kinfauns and Over Kinfauns on the north side of the River Tay. The image below illustrates the three development sites and the groupings in which they are located.



- 5.24 The above diagram compares the application site with two recently approved developments. Determining that the development site is unacceptable as a result of ribbon development would be wholly inconsistent with the approval of planning applications 11/01985/FLL and 12/00882/FLL. Given that these sites have been considered acceptable and are more recent and up to date than the 2009 appeal, it is considered that by the same consideration the application site does not contribute to ribbon development.
- 5.25 As mentioned above, the Reporter in considering the application site mentioned that it could also be considered as an infill site. The 2009 policy states that infill sites must be comparable in size to the neighbouring plots and have a similar frontage. It also requires that the proportion of built development on the plot should be similar to existing houses, the size and design of houses should complement existing, the full extent of the gap must be included in the site, must comply with general siting criteria and an adequate standard of amenity should be achieved. Again the policy makes reference to 'ribbon development', an issue that has been dealt with above.
- 5.26 The concept development scheme demonstrates that the development of the site would comply with the siting, layout and plot development criteria. There are no uses in the vicinity that would prevent an adequate standard of amenity being maintained. The issue of residential amenity has also been dealt with previously.
- 5.27 It therefore follows that the development of the site is in accordance with both categories one building groups, and two infill sites of the 2009 housing in the countryside policy. Therefore in accordance with the established determination method that has emerged in each of the cases mentioned in paragraph 4.13, providing the development can be accommodated without detriment to the purpose and integrity of the AGLV, the development should be considered acceptable.
- 5.28 The purpose of the AGLV is to protect and maintain the landscape setting of Perth. This application proposes the principle of a one and a half storey house on low lying land some 1.5km east of the very eastern edge of Perth which is distinguished by the Friarton Bridge and a large industrial estate.
- 5.29 The site benefits from an exceptional landscape framework. The rising landform to the south forms a permanent backdrop that is augmented and enhanced by mature trees and landscaping both within and surrounding the site. When viewed from the north bank side of the River Tay the site would be seen below Flowerdale Cottage and with a belt of mature trees behind it. Planning Advice Note 72 (PAN 72) states:
- "Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape."

- 5.30 PAN 72 goes on to state that new planting can further integrate development into the landscape. The concept scheme proposed allows for additional planting to be provided.
- 5.31 In considering application 11/01985/FLL the view of the Council was that providing the landscape framework can be maintained and controlled through condition, the development would be compatible with its surroundings and would not erode the special quality of the AGLV.
- 5.32 The application site meets the criteria for fitting development into the landscape as set out in PAN 72. In a low lying position with such a significant backdrop, and also sited within an existing group of dwellings surrounded by significant tree cover, and potential for further planting, it is considered that the development site has a suitable landscape framework and is entirely compatible with its surroundings. Additional planting could be controlled by condition ensuring that the landscape framework can be maintained.
- 5.33 In these circumstances it is considered that the development of a modest dwelling within the application site would not compromise the integrity or purpose of the AGLV designation.

6 Conclusion

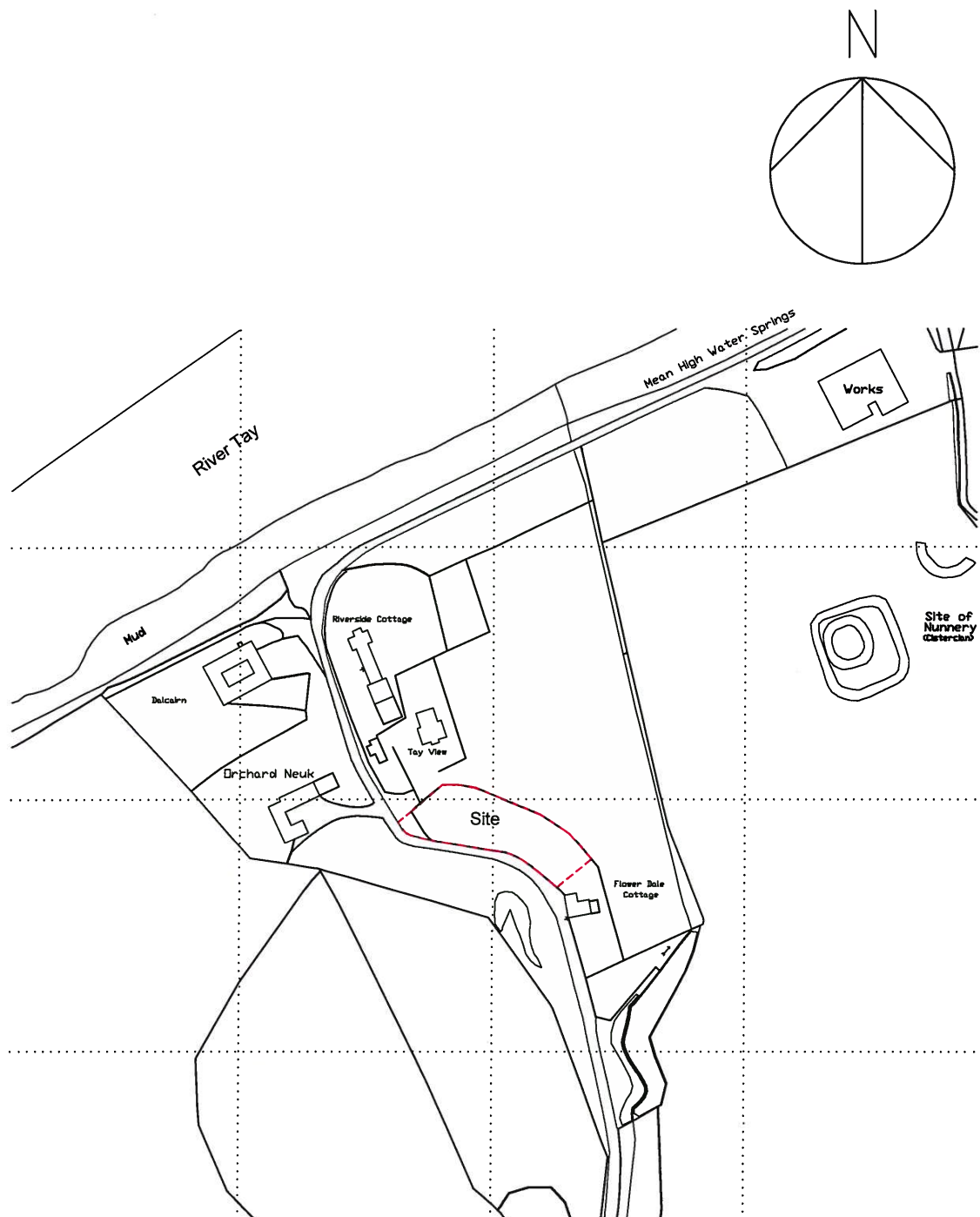
- 6.1 This proposal has been considered in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006. Whilst it is found that the development may not accord with the current, out of date development plan, there are clear material considerations in the 2009 housing in the countryside policy and a spate of recent determinations by Perth and Kinross Council that justify the approval of this application.

bidwells.co.uk

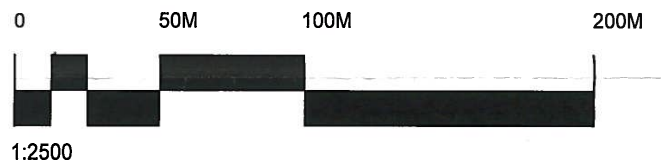
BIDWELLS

Bidwells is the UK's
leading regional
property consultancy.





Location Plan



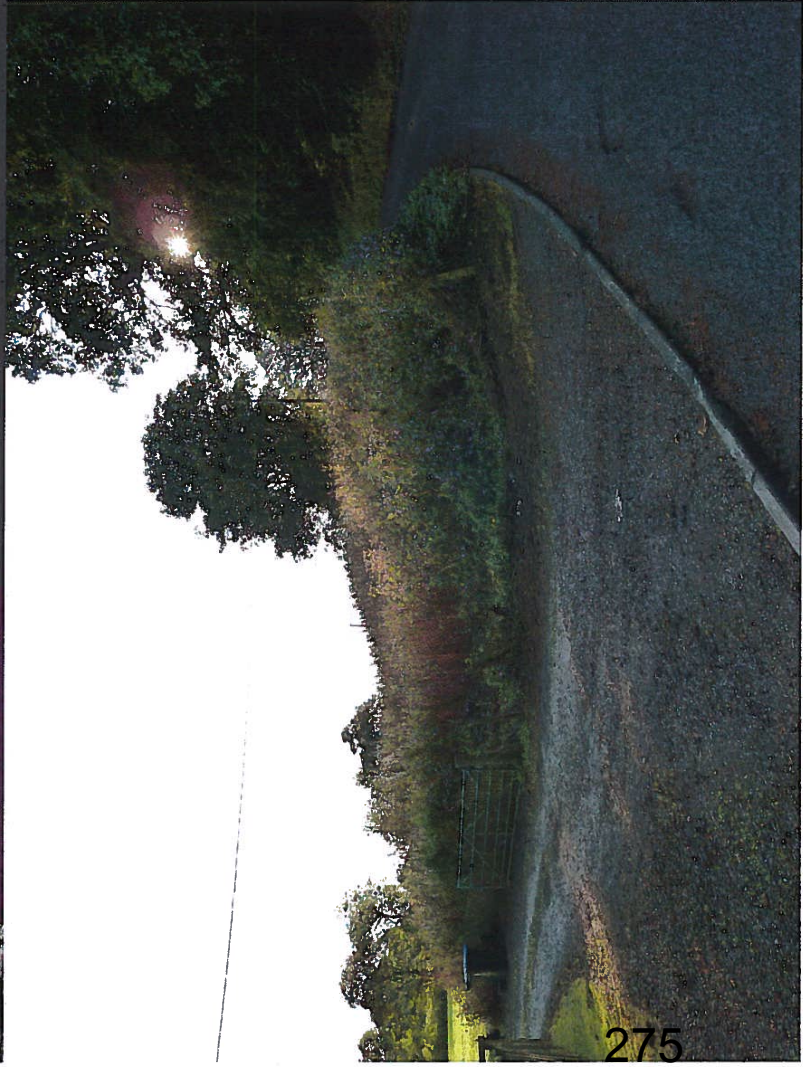
t: 01796 470082 e: mail@orchilarch.co.uk

Scale(s): 1:2500	Size: A4	First issue: 31/10/11	Drawn: BGH	Checked: JMH
Job no: 132		Drawing no: 04		Rev:



View towards Orchardneuk from Kinnoull Hill - Roadside





275

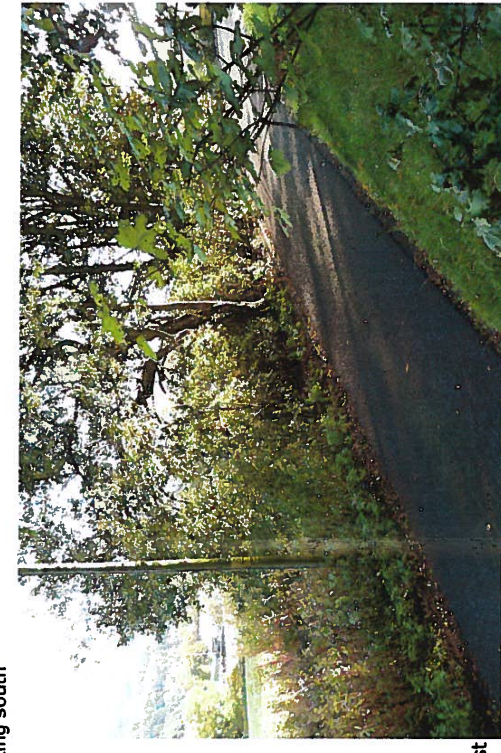
View adjacent to Tay View - Roadside looking east



View from field below site - looking south



View adjacent to Flower Dale Cottage - looking north



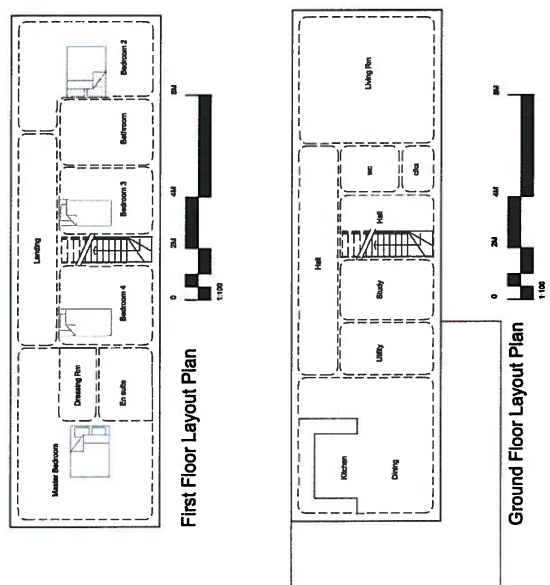
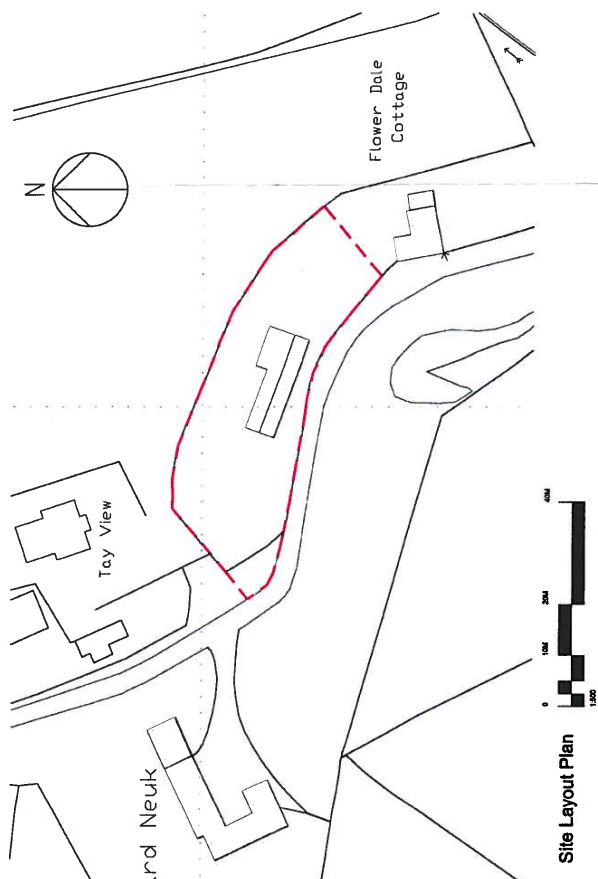
View across from site - looking north east

A hand-drawn architectural sketch of a modern, multi-story building with a dark, textured facade and a prominent staircase. The building is situated on a hillside, surrounded by stylized green trees and a winding path. A small car is visible on the path near the building.

Aerial Sketch Perspective - Field side



Sketch Perspective - Roadside



REPORT OF HANDLING

DELEGATED REPORT

Ref No	11/01985/FLL
Ward No	N1

PROPOSAL: Erection of a dwellinghouse

LOCATION: Land 60 Metres West Of Greenwood Kinfauns

APPLICANT: Mrs Ann Gloag

RECOMMENDATION: approve the application

SITE INSPECTION: 15 December 2011

OFFICERS REPORT:

Site Description and Background

This application relates to a wooded area of ground that extends to approximately 0.46ha within the Kinfauns Walled Garden, to the south of Kinfauns Castle. The site forms part of the original ornamental gardens for Kinfauns Castle and still retains many attractive landscape features such as a small water fall and a man made pond. The site is also quite heavily wooded with mature trees and forms part of an ancient woodland. However it is noted that a number of trees appear to have recently been felled, particularly within the western area of the site.

Outline planning permission was granted in 2008 for the erection of a dwellinghouse within the eastern half of the site (Planning Ref: 08/00398/OUT). Whilst this consent expired in advance of the submission of this application, it is still a recent valid material consideration.

Proposals

The applicant has submitted a detailed application for the erection of a single house centrally within the site. The proposed house is a two storey property with an integral single garage and garden store at basement level. The house will cut into the slope of the existing site and will be constructed over the existing stream, utilising the existing pond as a unique feature. The external finish of the house is detailed as natural slate roof and rendered to the walls with elements of natural stone and timber shiplap boarding. A new vehicular access is to be taken from the public road.

Assessment

- Policy

The determining issues in this particular case are whether the proposal complies with the Development Plan and whether or not there are material considerations supporting approval contrary to the Development Plan. In this instance the appropriate Local Plan policies are: Policy 32: Housing in the Countryside; Policy 11

and 12 regarding Areas of Great Landscape Value; and Policy 17 relating to Historic Gardens and Designed Landscapes. The Council's policy document Housing in the Countryside, August 2009 is an up to date and material consideration in this case.

- Housing in the Countryside Policy

It is considered that proposed site conforms to the criteria for housing development within building groups as outlined in section 1 of the Housing in the Countryside Policy 2009. The site is located within the existing established building group at Kinfauns Walled Garden which comprises of around 12 separate dwellings. It is also considered that the site provides a logical extension to the existing building group onto a definable site formed by well established mature landscaping which will provide a suitable setting and containment to the proposed development. I am therefore satisfied that the proposals comply with the Housing in the Countryside Policy 2009 provided suitable conditions are imposed to ensure the retention of the trees within the site.

- Design

It is considered that the proposed two storey house is of a relatively traditional appearance that will not appear out of place within its surroundings. The use of natural slate roof tiles and a mixture of render, stone and timber to the exterior walls is also of a suitably high standard, reflective of the quality of development on neighbouring plots. It is also considered that the site is of a sufficient size to satisfactorily accommodate the development and still provide adequate remaining space for private amenity, parking and turning.

- Tree Retention and Biodiversity

A detailed tree survey was submitted with the previous outline consent and at that time it was considered that the house should be positioned within the eastern half of the site in order to avoid a number of specimen trees. The applicant is now proposing to position the house centrally within the site, bridging over the stream and overlooking the pond. As a result of this alteration to the proposed layout the applicant has submitted an updated tree survey. This updated tree survey illustrates the re-positioning of the house will reduce the number of trees that will be affected by the proposals and allow for the main signature trees to be retained.

The Council's Biodiversity Officer initially raised some concern regarding the removal of trees and impact on wildlife, particularly in relation to the existing stream and pond. Following discussions it has been agreed that conditions requiring the retention of all remaining trees and further information regarding the proposed construction of the foundations over the stream would be sufficient to address his concerns.

- Historic Gardens and Designed Landscapes/AGLV

As outlined within the Housing in the Countryside Policy, in areas where other particular constraints apply, the policies specific to these areas must also be complied with. In this instance the site is located within the Kinfauns Castle Walled Garden (Policy 17) and an Area of Great Landscape Value (Policy 11 and 12).

In regards to the impact on the walled gardens, both Historic Scotland and the Conservation Team have assessed the proposals and concluded that the development will not have any impact on the setting of Kinfauns Castle or the walled garden. It is therefore considered that the proposals comply with Policy 17.

+

The local plan states in Policy 12 that there is a presumption against built development within an AGLV, except for development necessary for operational need. In this instance there is no established operational need and therefore must be considered to be contrary to the local plan. However during the assessment of the previous outline consent it was assessed by the Planning Officer that providing the landscape fabric is retained and protected by condition that development would be compatible with the surroundings and would not erode the special qualities of the AGLV. I also share this view and whilst the previous outline has since expired, it is still considered to be a valid material consideration in the assessment of this application.

- Education Contribution

Kinnoull Primary School is currently considered to be at capacity by Education and Children's Services. As the previous outline consent has expired the Council's recently approved Planning Guidance Note on Primary Education and New Housing Development will apply. Under the new policy, as it applies to education infrastructure, the developer will be required to make a contribution of £6,395 towards the cost of increasing school capacity which could be either a financial payment upon which the planning consent will be issued or involve a Section 75 legal agreement which upon signing by both parties the planning consent will be issued. The total amount required by the Policy is therefore £6,395.

Conclusion

It is considered that the proposals comply with the requirements of the Housing in the Countryside Policy and will also not result in any adverse impact on Kinfauns Castle or the historic walled garden. I have taken all material considerations into account and I find none to justify refusal. On that basis the application is recommended for approval subject to conditions.

DEVELOPMENT PLAN

The application raises no strategic issues of relevance to the Perth and Kinross Structure Plan 2003.

In summary, the principal Development Plan policies of relevance which are found in the Perth Area Local Plan, 1995 are:

Landward Area - Policy 1 - Developments will be judged against the criteria which include the following:

- The site should have a good landscape framework within which the development can be set and, if necessary, screened completely.
- The development should be compatible with its surroundings in land use terms and should not cause unacceptable environmental impact.
- In the case of built development, the scale, form, colour and design should accord with the existing pattern of building.
- The site should be large enough to satisfactorily accommodate the development.

Policy 11 Areas of Great Landscape Value

Perth and Kinross Council
Development Management Committee – 4 July 2012
Report of Handling by Development Quality Manager

**Erection of 2 dwellinghouses at Land 80 Metres South East Of Over Kinfauns
Farm, Church Road, Kinfauns, PH2 7LD**

Ref. No: 12/00882/FLL
Ward No: 1 – Carse of Gowrie

Summary

This report recommends approval of a detailed planning application for the erection of two dwellings on a consented residential infill site at Over Kinfauns, on the grounds that the proposed house types will not adversely impact on either the visual or residential amenity of the area.

BACKGROUND AND DESCRIPTION

1. The application site relates to an infill site located on Church Road, Kinfauns that is sandwiched between two residential properties. The site obtained a planning in principle consent earlier this year for the erection of two detached dwellings, subject to a condition which stated that *'Each dwelling shall offer living accommodation over one level only, to the satisfaction of the Council as Planning Authority'*. This planning application seeks to obtain detailed planning permission for the erection of two detached dwellings, each offering living accommodation over two levels, the upper contained wholly within the roofspace. Both dwellings will be of the same bespoke house type.

NATIONAL POLICY AND GUIDANCE

- 2 The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars. Of particular relevance to this planning application are:-

Scottish Planning Policy 2010

- 3 This SPP is a statement of Scottish Government policy on land use planning and contains:
 - 1 the Scottish Government's view of the purpose of planning,
 - 2 the core principles for the operation of the system and the objectives for key parts of the system,
 - 3 statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - 4 concise subject planning policies, including the implications for development planning and development management, and
 - 5 the Scottish Government's expectations of the intended outcomes of the planning system.

OTHER COUNCIL POLICIES

Planning Guidance Note: Primary Education and New Housing Development 2009

- 9 This Developer Contributions Policy was approved by the Council on 6 May 2009. The policy applies over the whole administrative area of Perth and Kinross. This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. As the local primary school (Kinnoull) is operating at over its capacity, a financial contribution will be required for both dwellings prior to the formal release of any consent.

Housing in the Countryside Policy 2009

- 10 This policy is the most recent expression of Council policy towards new housing in the open countryside, and is applicable across the entire landward area of Perth and Kinross and offers a more up to date expression of Council policy towards housing in the countryside. In terms of infill sites, the HITCP 2009 seeks to ensure (amongst other things) that the proportion of each plot occupied by a new dwelling should be no greater than that exhibited by the existing house(s), there are no uses in the vicinity which would prevent the achievement of an adequate standard of amenity for the proposed house(s), and the amenity of the existing house(s) is maintained and the size and the design of the infill houses should be in sympathy with the existing house(s).

SITE HISTORY

- 11 A planning in principle application (11/00897/IPL) for a residential development on the site was approved by the then Development Control Committee in January this year. The planning application was approved by the Committee on the grounds that even though the proposal was contrary to the Development Plan and the HITCP 2009, the site's characteristics were considered to be sufficient justification for departing from the aforementioned policies. A subsequent planning application (12/00687/AML) for the approval of matters specified by conditions in the planning in principle consent was withdrawn prior to it being determined.

CONSULTATIONS

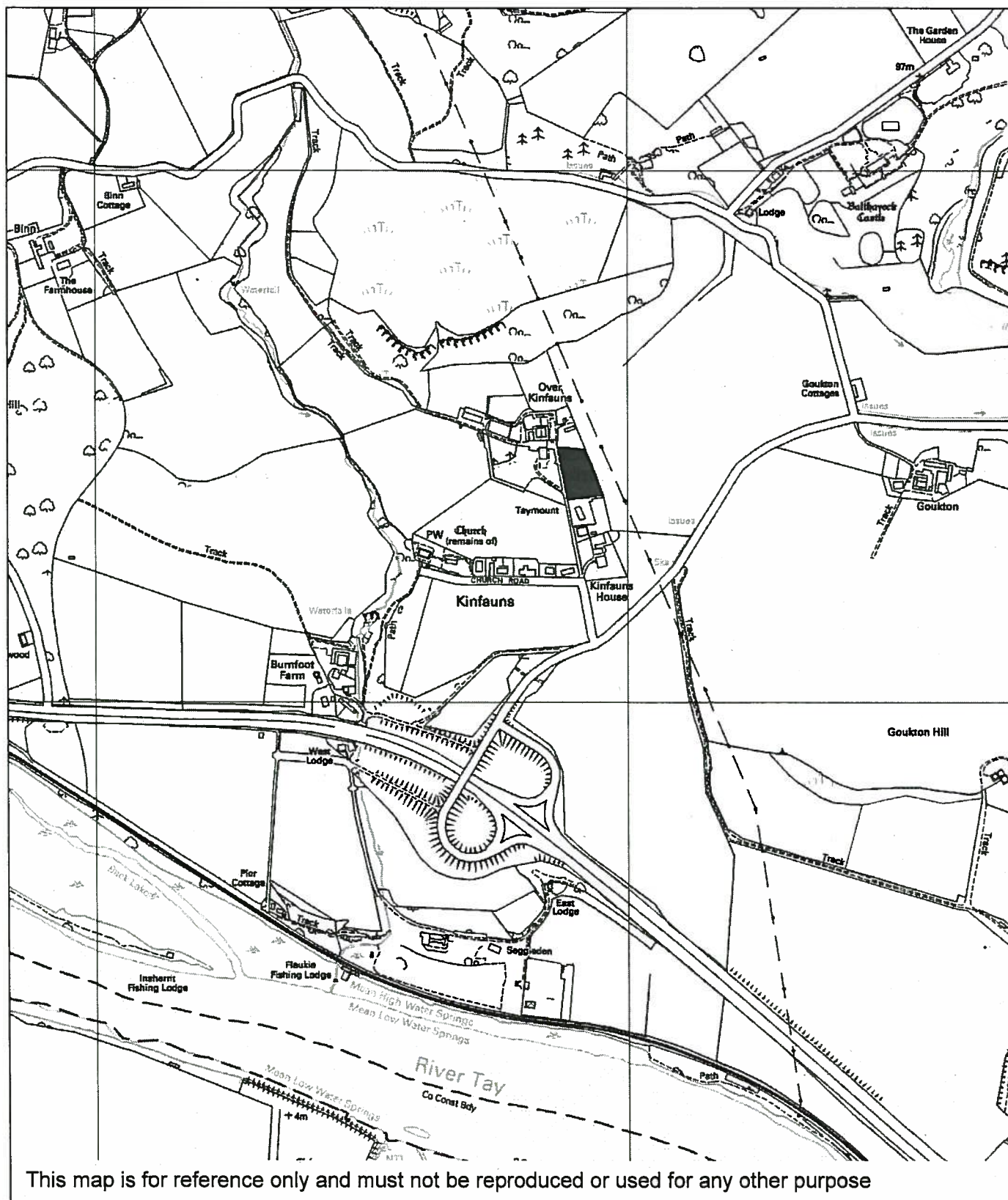
- 12 **Scottish Water** has commented on the planning application and raised no objection.
- 13 **SEPA** has commented on the planning application at the planning in principle stage and raised no concerns.
- 14 **Environmental Health Manager** has commented on the planning application in terms of both contaminated land issues and private water supplies and has

Perth & Kinross Council

12/00882/FLL

Erection of 2 dwellinghouses

Land SE of Over Kinfauns Farm, Church Road, Kinfauns



This map is for reference only and must not be reproduced or used for any other purpose

↑ Scale
1:10000

Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right (2012). All rights reserved. Ordnance Survey Licence number 100016971

<p>TCP/11/16(221) Planning Application 12/01323/IPL – Erection of dwellinghouse on site north of Flowerdale Cottage, Rhynd</p>
--

PLANNING DECISION NOTICE *(included in applicant's submission, see pages 257-258)*

REPORT OF HANDLING *(included in applicant's submission, see pages 249-256)*

REFERENCE DOCUMENTS *(part included in applicant's submission, see pages 273-275)*

Orchard Neuk, Perth



Ordnance Survey © Crown Copyright 2012. All rights reserved.
Licence number 100020449. Plotted Scale - 1:50000



Drawing Number : A.42,535
Date : 31/7/2012

BIDWELLS

t : 01738 630666
bidwells.co.uk





TCP/11/16(221)
Planning Application 12/01323/IPL – Erection of
dwellinghouse on site north of Flowerdale Cottage, Rhynd

REPRESENTATIONS

- Representation from Transport Planning, dated 24 August 2012
- Representation from Perth and Kinross Heritage Trust, dated 27 August 2012



MEMORANDUM

To	John Williamson Planning Officer	From	Niall Moran Transport Planning Technician Transport Planning
Our ref:	NM	Tel No.	Ext 76512
Your ref:	12/01323/IPL	Date	24 August 2012

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 & ROADS (SCOTLAND) ACT 1984

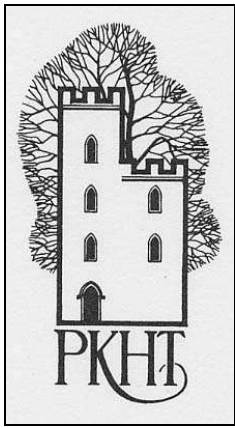
With reference to the application 12/01323/IPL for planning consent for:- **Erection of dwellinghouse Site North Of Flowerdale Cottage Rhynd for Ms Elizabeth Cameron**

Insofar as the Roads matters are concerned I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.

- Prior to the occupation and use of the approved development all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

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

I trust these comments are of assistance.



Memorandum

To: John Williamson, TES.

From: Sarah Malone, PKHT.

Date: 27 August 2012

Tel: 01738 477083

*Perth and Kinross Heritage Trust.
The Lodge, 4 York Place, Perth
PH2 8EP.*

12/01323/IPL: Erection of dwellinghouse at Site North Of Flowerdale Cottage, Rhynd

Thank you for consulting PKHT on the above application. The development site is in close proximity to the archaeological remains of the nationally important Grange of Elcho medieval nunnery. This was a Cistercian monastic centre founded in the mid-13th century and destroyed at the Reformation during the 16th century. There is the potential for archaeological remains associated with the grounds of the nunnery to survive within the development site.

As the development is located within an archaeologically sensitive area it is recommended that archaeological monitoring should take place during all ground-breaking works to ensure any significant remains are recorded.

Recommendation

In line with Scottish Planning Policy (Historic Environment sections 110 and 123), it is recommended that the following archaeological condition is attached to consent, if granted:

The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the planning authority, during development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Perth and Kinross Heritage Trust. The name of the archaeological organisation retained by the developer shall be given to the planning authority and to the Perth and Kinross Heritage Trust in writing not less than 14 days before development commences.

Please contact me should you wish to discuss any of the above in more detail.

Notes:

- 1. Should consent (incorporating the recommended condition) be given, it is important that the developer contact me a.s.a.p. I can then explain the level of work required and provide them written Terms of Reference.**
2. Historic Scotland may need to be consulted on the potential implications of the development on the settings of Scheduled Ancient Monuments, as required by Article 15 (1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 and recommended by PAN 2/2011.
3. *This advice is based on information held on the Perth and Kinross Historic Environment Record. This database of archaeological sites and historic buildings is regularly updated.*