

TCP/11/16(249)

Planning Application 12/01745/IPL – Erection of a dwellinghouse (in principle) at Balneathill House, Easter Balgedie, Kinross, KY13 9HQ

**PAPERS SUBMITTED
BY THE
APPLICANT**



Pullar House 35 Kinnoull Street Perth PH1 5GD

Tel: 01738 475300

Fax: 01738 475310

Email: onlineapps@pkc.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 000062524-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

First Name: *

Last Name: *

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

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

Building Name:

Building Number:

Address 1 (Street): *

Address 2:

Town/City: *

Country: *

Postcode: *

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

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

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

Building Name:	<input type="text" value="Balneathill House"/>
Building Number:	<input type="text"/>
Address 1 (Street): *	<input type="text" value="Easter Balgedie"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Kinross"/>
Country: *	<input type="text" value="Scotland"/>
Postcode: *	<input type="text" value="KY13 9HQ"/>

Site Address Details

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

Address 1:	<input type="text" value="Balneathill House"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="Easter Balgedie"/>	Town/City/Settlement:	<input type="text" value="Kinross"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="KY13 9HQ"/>
Address 4:	<input type="text"/>		

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

Northing	<input type="text" value="703628"/>	Easting	<input type="text" value="317258"/>
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Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Refer to separate document for grounds of appeal

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

Yes No

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

MBM1 - Application forms and plans, MBM2 - PKC Refusal Notice, MBM3 - Planning permission 08/01803 and plan, MBM4 - Report of Handling, MBM5 - Consultation Response from Forward Planning Team, MBM6 - Consultation Response from Environmental Health Manager, MBM7 - Extract from the Code of Good Practice Prevention of Environmental Pollution from Agricultural Activity, MBM8 - Photographs

Application Details

Please provide details of the application and decision.

What is the application reference number? *

12/01745/IPL

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

28/09/12

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

15/04/13

Review Procedure

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

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

Yes No

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

Please select a further procedure *

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

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

To see the relationship of the site to the farm and also the wider Easter Balgedie settlement

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

Can the site be clearly seen from a road or public land? * Yes No

Is it possible for the site to be accessed safely and without barriers to entry? * Yes No

Checklist - Application for Notice of Review

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

Have you provided the name and address of the applicant? * Yes No

Have you provided the date and reference number of the application which is the subject of this review? * Yes No

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

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? * Yes No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and drawings) which are now the subject of this review * Yes No

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

Declare - Notice of Review

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

Declaration Name: Mark Myles

Declaration Date: 29/04/2013

Submission Date: 29/04/2013

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

**Erection of dwellinghouse (in principle) at
Balneathill House, Easter Balgedie, Kinross, KY13 9HQ**

Grounds of Appeal

on behalf of Mr P Foniciello

29th April 2013

Contents

- 1 Introduction
- 2 Response to PKC reasons for refusal
- 3 Conclusions

List of Appendices

- | | |
|------|--|
| MBM1 | Planning Application forms and plans |
| MBM2 | PKC refusal notice dated 15 th April 2013 |
| MBM3 | Copy of planning permission 08/01803/FUL & Approved Plan |
| MBM4 | PKC Report of Handling |
| MBM5 | Consultation Response from Forward Planning Team – 12/10/12 |
| MBM6 | Consultation Response from Environmental Heath Manager – 22/10/12 |
| MBM7 | Extract from The Code of Good Practice Prevention of Environmental Pollution from Agricultural Activity (MBM7) |
| MBM8 | Photographs of access, site and adjacent agricultural buildings |

1. Introduction

- 1.1 This appeal statement should be read in conjunction with the Notice of Review submitted on 29th April 2013 on behalf of Mr P Foniciello, for the erection of a house (in principle) on land north east of Balneathill House, Easter Balgedie, Kinross. The planning application (12/01745/IPL) (MBM1) was refused by PKC on 15th April 2013 (MBM2).
- 1.2 The proposal requires to be considered under the terms of the development plan policies (in particular Policies 2, 11, 12, 48, 50, 54 & 94 of the Kinross Area Local Plan).
- 1.3 The most important material consideration to consider in the determination of this appeal is the fact that the proposed house would be sited within the garden ground of a dwellinghouse previously granted planning consent (08/01803/FLL – MBM3).
- 1.4 The planning officers Report of Handling (MBM4) along with the consultation response received from the Forward Planning Team (MBM5) confirm that it has been shown that the house would be sited within the settlement boundary. The planning officers have confirmed that the plot is large enough to accommodate the house and that it can be positioned and designed to avoid any privacy concerns for neighbouring properties. The planning officers have therefore confirmed that the principle of a house on this site is acceptable provided other material planning issues can be satisfied.
- 1.5 In this case the reasons for refusal of the application relate solely to concerns about the proximity of the house to Balneathill Farm and the visibility at the junction of the access road.

2. Response to PKC Reasons for Refusal

- 2.1 As highlighted above the planning application was refused on 15th April 2013 for three different reasons (MBM2).
- 2.2 The first two reasons for refusal raise concerns in respect of the proximity of Balneathill Farm to the site.
- 2.3 The first reason for refusal states that the proposed house would be subjected to noise, odours and dust at various times of the year resulting in an adverse affect on the residential amenity of the house.
- 2.4 This reason stems from a concern raised in the consultation response received from the Environmental Health Manager (MBM6). The response points to the significance of The Code of Good Practice Prevention of Environmental Pollution from Agricultural Activity (copy extracts MBM7). This document was published by the Scottish Government in 2005 and we consider that the Environmental Health response has taken the contents of the document completely out of context when assessing this application. The Code of Practice is aimed solely at preventing ***new livestock buildings*** from being located within 400 m of residential development (paragraph 13.14 (MBM7) in order to prevent concerns being raised by **existing** residents. The crucial point here is that the farm buildings already exist and any future occupants of the house would be well aware of the potential for some occasional disturbance emanating from the nearby farm. It is therefore clear that the Environmental Health response raises a concern which is not valid as this application is not proposing a new farm building.
- 2.5 We would also draw the Local Review Body's attention to the fact that the whole of the Easter Balgedie settlement is located within 400 metres of the farm and furthermore a number of planning permissions have been approved in recent years for developments within Easter Balgedie, without this concern ever being raised. Indeed the farm buildings themselves are located within the Easter Balgedie settlement boundary.
- 2.6 The second reason for refusal then suggests that the proposed house would somehow prejudice the working practices of the farm contrary to Policy 50 in the Kinross Area Local Plan. Policy 50 states that the council will support agriculture remaining as a major land use and a source of employment in the Plan area and the loss of prime quality land for irreversible development will be avoided.
- 2.7 The site of the proposed house already forms part of an approved curtilage for a house (see MBM3) and is located within the Easter Balgedie settlement boundary so it is a fact that it does not involve any loss of agricultural land. The Forward Planning Team's policy response on the application (MBM5) further

supports our view on this matter. The reference to Policy 50 as a reason for refusal is considered to be totally erroneous.

- 2.8 The photographs (MBM8) that were lodged when the application was submitted confirm that the adjacent agricultural buildings are not used for housing livestock for the majority of the year. The livestock is normally kept in the fields to the north of the farm.
- 2.9 As stated above the farm already exists and any future occupants of the proposed house would be well aware of the location close to the nearby working farm. The Environmental Health consultation response makes no reference to this issue whatsoever. We also consider that it is significant that the Environmental Health response makes no reference to any specific complaints having been received or issues that may have arisen in the past due to the proximity of this farm with the existing residential properties in the settlement. Policy 50 was never intended to be used to protect the interests of farm operations from new residential properties that are all located within an existing settlement. The use of Policy 50 in the reason for refusal is also completely at odds with the actual objectives of the policy. For these reasons the proposal is not considered to conflict with Policy 50 of the adopted local plan.
- 2.10 The third reason for refusal relates to the visibility at the junction of the access with the A911. It is accepted that the visibility to the north is more limited than to the south, however the access already provides access to 5 residential properties plus the site with planning permission (MBM3) and also the farm. To suggest that one additional residential property will compromise road safety is in our view unreasonable. A number of residential properties have already been approved and built using this access and we consider that this has been added as a reason for refusal in an attempt to add weight to the overall decision. This is evidenced by the fact that the Report of Handling did not include this as a reason for refusal and within the body of the report it even states that *'there were concerns raised about the safety of the existing access onto the A911, however it is considered that as an existing access servicing the farm and other residential properties that this could not be posed as a reason for refusal.'*

3 Conclusion

- 3.1 The application site lies wholly within the garden ground of the dwellinghouse previously approved (ref 08/1803/FLL) and the proposed siting for the house lies within the Easter Balgedie settlement boundary as shown on Map 20 in the Kinross Area Local Plan.
- 3.2 The planning officer and the Forward Planning Policy response both accepted that in principle the proposed house is acceptable in policy terms when assessed against the Kinross Area Local Plan.
- 3.3 The first two reasons for refusal relate to a concern raised by the Environmental Health Manager with reference to the Code of Good Practice Prevention of Environmental Pollution from Agricultural Activity. Our grounds of appeal show that the Environmental Health response has taken the contents of the Code of Practice out of context when assessing this application. The Code of Practice is clearly aimed at preventing new livestock buildings from being located within 400 m of residential development to prevent concerns being raised by existing residents. The crucial point here is that the farm buildings already exist and any future occupants of the house would be well aware of the potential for any occasional disturbance emanating from the nearby farm. The Environmental Health response raises a concern which is not valid as this application is not proposing a new farm building.
- 3.4 The use of Policy 50 in the second reason for refusal is also completely at odds with the actual objectives of the policy. For the reasons outlined in paragraphs 2.6 – 2.9 the proposal is not considered to conflict with Policy 50 of the adopted local plan.
- 3.5 Finally in terms of the visibility at the junction of the access, the planning officer's own view was that '**this could not be posed as a reason for refusal.**' The third reason for refusal did not appear in the Report of Handling and we concur with this view and do not consider that this is a reason for refusal of this proposal.
- 3.6 In summary we consider that the proposal complies with all of the relevant policy criteria as set out in the Kinross Area local Plan and therefore respectfully request that the Local Review Body allow the appeal and grant planning permission.



Pullar House 35 Kinnoull Street Perth PH1 5GD

Tel: 01738 475300

Fax: 01738 475310

Email: onlineapps@pkc.gov.uk

Planning Department

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

Thank you for completing this application form:

ONLINE REFERENCE 000049322-001

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

Type of Application

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

We strongly recommend that you refer to the help text before you complete this section.

- Application for Planning Permission (including changes of use and surface mineral working)
- Application for Planning Permission in Principle
- Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Proposed new dwelling on land to North-East of Balneathill House, Easter Balgedie

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place? (Answer 'No' if there is no change of use.) * Yes No

Have the works already been started or completed? *

- No Yes - Started Yes - Completed

Applicant or Agent Details

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

Agent Details

Please enter Agent details

Company/Organisation:	Scott Strachan Architect
Ref. Number:	
First Name: *	Scott
Last Name: *	Strachan
Telephone Number: *	07872318785
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address: *	scott@scottstrachan.co.uk

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

Building Name:	The Hurst
Building Number:	
Address 1 (Street): *	Old Perth Road
Address 2:	Milnathort
Town/City: *	Kinross
Country: *	Scotland
Postcode: *	KY13 9YA

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title: *	Mr
Other Title:	
First Name: *	P
Last Name: *	Fonciello
Company/Organisation:	
Telephone Number:	
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address:	

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

Building Name:	Balneathill House
Building Number:	
Address 1 (Street): *	Easter Balgedie
Address 2:	
Town/City: *	Kinross
Country: *	Kinross-shire
Postcode: *	KY13 9HQ

Site Address Details

Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="Balneathill House"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="Easter Balgedie"/>	Town/City/Settlement:	<input type="text" value="Kinross"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="KY13 9HQ"/>
Address 4:	<input type="text"/>		

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

Northing	<input type="text" value="703628"/>	Easting	<input type="text" value="317258"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

26/6/12- Meeting with Mark Williamson & Euan McLaughlin- Agreed to reposition footprint within village settlement boundary
5/9/12- Meeting with Mark Williamson (Planning) & Dawn Stewart (Environmental Health)- discussed proximity to adjacent farm buildings- Buildings predominantly not used for housing livestock.

Title:	<input type="text" value="Mr"/>	Other title:	<input type="text"/>
First Name:	<input type="text" value="Mark"/>	Last Name:	<input type="text" value="Williamson"/>
Correspondence Reference Number:	<input type="text"/>	Date (dd/mm/yyyy):	<input type="text" value="05/09/12"/>

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

Please state the measurement type used: Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

Private garden amenity ground

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

Yes No

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

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? *

Yes No

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

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

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

- Yes – connecting to public drainage network
- No – proposing to make private drainage arrangements
- Not Applicable – only arrangements for water supply required

What private arrangements are you proposing? *

- New/Altered septic tank.
- Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
- Other private drainage arrangement (such as chemical toilets or composting toilets).

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: * (Max 500 characters)

Biodisc treatment plant approved under 08/01803/FLL for use by 3 dwellings

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) *

Yes No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

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

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

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

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

Trees

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

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? * Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2008 * Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * Yes No

Certificates and Notices

Certificate and Notice under Regulation 15 8 – Town and Country Planning (General Development Management Procedure) (Scotland) Order 1992 (GDPO 1992) Regulations 2008

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

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

Signed: Scott Strachan

On behalf of: Mr P Foniciello

Date: 28/09/2012

Please tick here to certify this Certificate. *

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

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

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments, have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and County Planning (Scotland) Act 1997

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

c) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

d) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2008) have you provided a Design Statement? *

Yes No Not applicable to this application

e) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

f) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

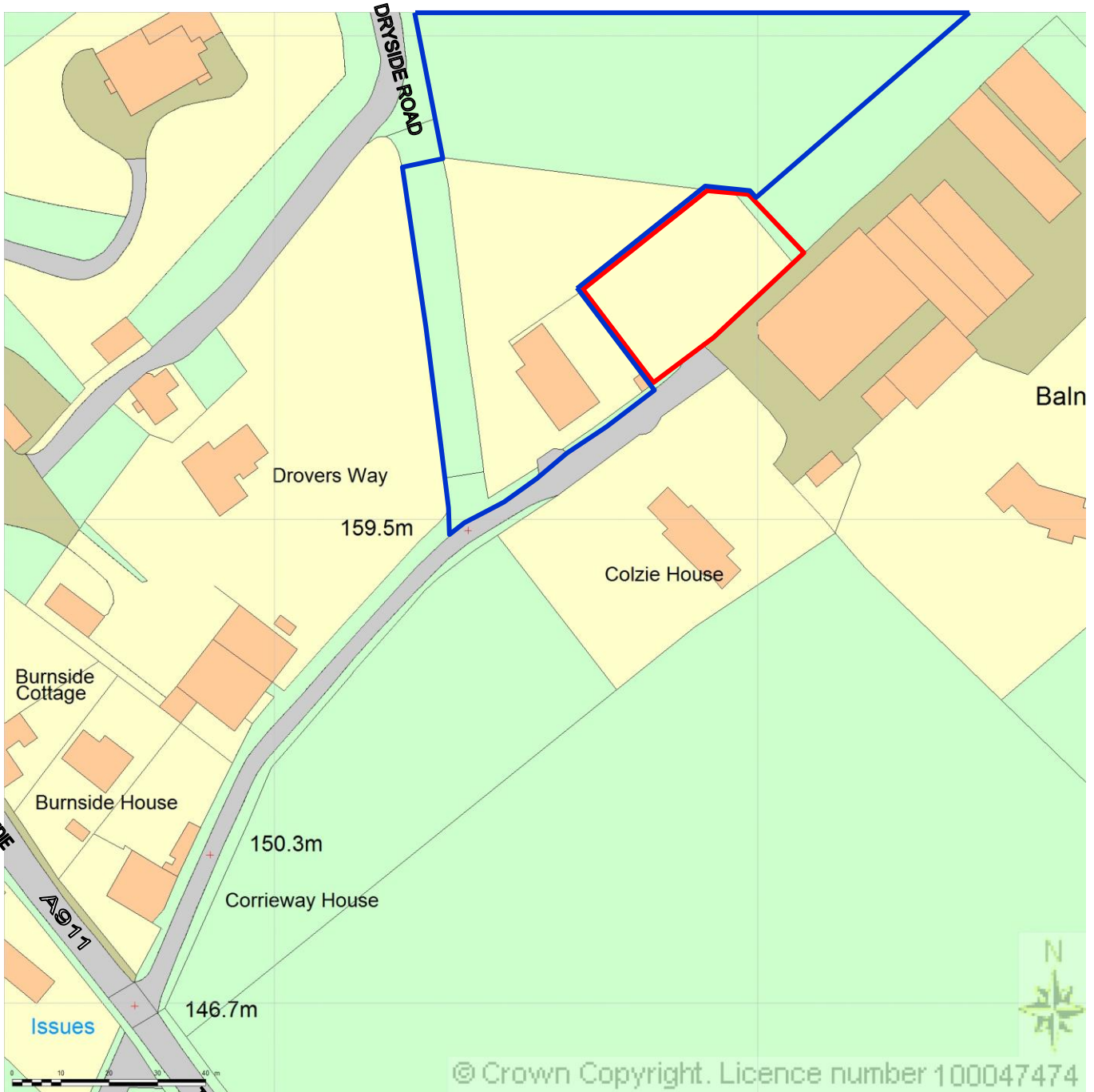
Other Statements (please specify). (Max 500 characters)

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

Declaration Name: Scott Strachan
Declaration Date: 28/09/2012
Submission Date: 28/09/2012

SITE LOCATION PLAN
AREA 5 HA
SCALE 1:1250
CENTRE COORDINATES: 317256, 703593



LOCATION PLAN
PROPOSED NEW DWELLING
AT LAND NORTH EAST OF BALNEATHILL HOUSE, EASTER BALGEDIE
KINROSS KY13 9HQ



Supplied by Streetwise Maps Ltd
www.streetwise.net
Licence No: 100047474
01/10/2012 14:56:12

NOTES
 ALL DIMENSIONS TO BE VERIFIED ON SITE
 WE HEREBY CERTIFY THAT THIS IS THE PLAN / A TRUE COPY OF THE PLAN REFERRED TO IN CONNECTION WITH THE APPLICATION FOR PLANNING PERMISSION/ BUILDING WARRANT

- EXTERNAL FINISHES**
- ROOF**
 NATURAL SLATE
 ZINC RIDGE & CLIPS
 PROPRIETARY VELUX ROOF WINDOWS
 GALVANISED RW GOODS
 STAINLESS STEEL FLUE
- WALLS**
 SMOOTH WHITE POLYMER RENDER
 GREY PAINTED INTERIOR BOARDING
 GREY PAINTED WINDOWS & EXTERNAL DOORS
 NATURAL STONE BASECOURSE

REV.	DATE	DESCRIPTION
<input type="checkbox"/>		SKETCH PROPOSAL
<input type="checkbox"/>		CLIENT APPROVAL
<input type="checkbox"/>		BUILDING WARRANT
<input checked="" type="checkbox"/>		PLANNING
<input type="checkbox"/>		BILLING
<input type="checkbox"/>		TENDER
<input type="checkbox"/>		CONSTRUCTION
<input type="checkbox"/>		AS-BUILT

SCOTTSTRACHAN ARCHITECT
 THE HURST, OLD PETER ROAD, ABERDEEN, FERROSS KT13 9YA
 T: 01463 771111 F: 01463 771155
 scottstrachan.co.uk

PROJECT
 PROPOSED NEW DWELLING IN GARDEN AREA, BALNEATHILL HOUSE, EASTER BALGADIE

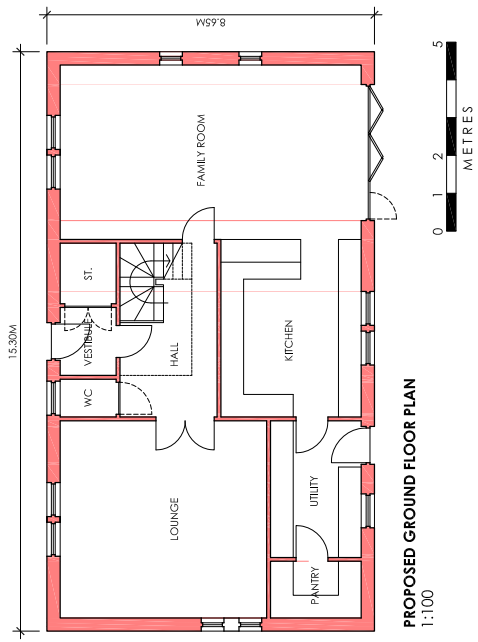
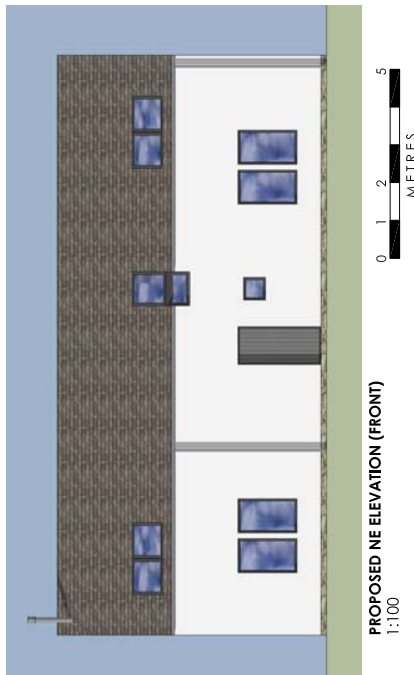
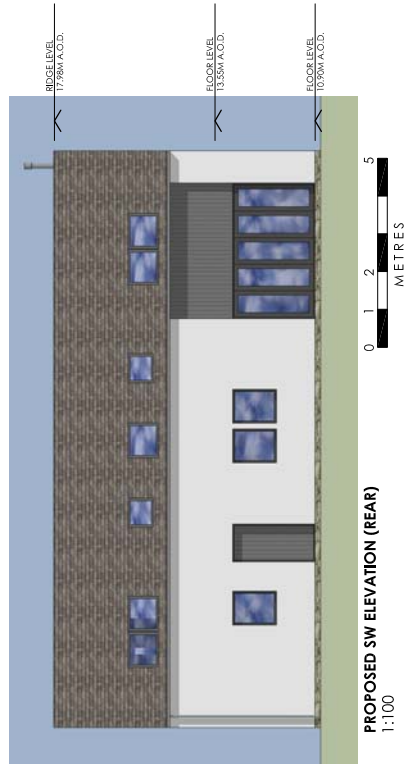
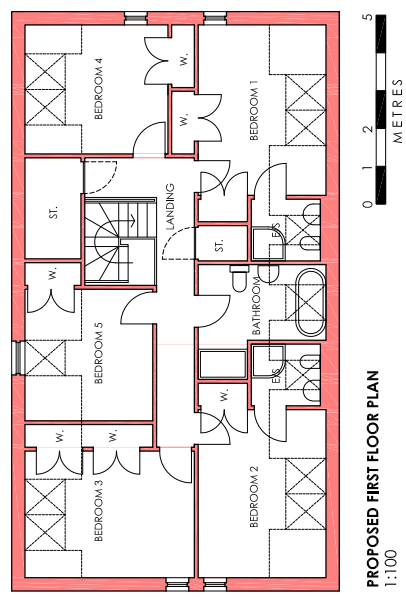
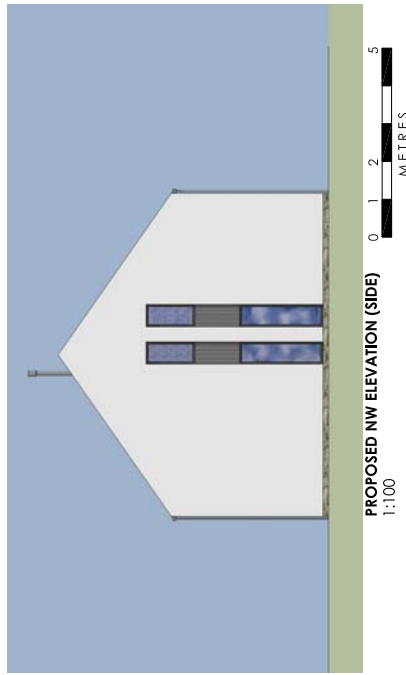
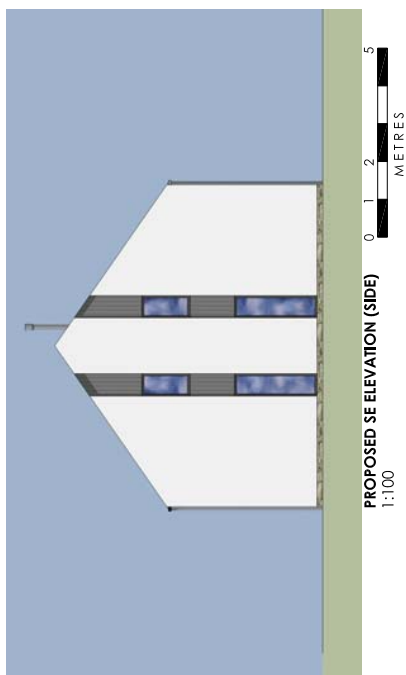
CLIENT
 MR. P. FONICIELLO

DRAWING TITLE
 PROPOSED HOUSE TYPE PLANS & ELEVATIONS

DATE
 27 SEP 2012

SCALE
 1:100 @ A2

DRAWING NO.
 12/1221/PL/002



SITE BOUNDARY -
 EXISTING 1.20M HIGH TIMBER FENCE RELOCATED

PERTH AND KINROSS COUNCIL

Mr P Foniciello
c/o Scott Strachan Architect
The Hurst
Old Perth Road
Milnathort
Kinross
KY13 9YA

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 15th April 2013

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **12/01745/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 1st October 2012 for permission for **Erection of a dwellinghouse (in principle) Balneathill House Easter Balgedie Kinross KY13 9HQ** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposed new dwellinghouse is in close proximity to Balneathill Farm which is a working farm and as such would be subjected to noise odours and dust at various times of the year which would have an adverse affect on the residential amenity of a dwellinghouse in this location.
2. The proposed siting of a dwellinghouse in this location in close proximity to the adjacent Balneathill Farm will prejudice the working practices of this farm, contrary to Policy 50 of the Kinross Area Local Plan 2004.
3. Although utilising an existing shared access track from the A911, this access has significantly compromised visibility. Additional usage is not desirable and is considered detrimental to road safety.

Justification

The proposed dwellinghouse by virtue of it's proximity to a working farm will have an adverse impact on the residential amenity of the occupiers of the development and will prejudice farming practices.

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

12/01745/1

12/01745/2

12/01745/3

12/01745/4

PERTH AND KINROSS COUNCIL

Mr And Mrs Foniciello
M And S Character Homes
10 South Street
Milnathort
Kinross KY13 9XA

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 23 April 2010

Town and Country Planning (Scotland) Acts.

Application Number **08/01803/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 11th September 2008 for planning permission for Erection of a dwellinghouse Balneathill House Easter Balgedie Kinross KY13 9HQ subject to the undernoted conditions.

Development Quality Manager

Conditions Referred to Above

1. The development shall be begun within a period of five years from the date of this consent.
2. The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
3. Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.
4. Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces shall be provided within the site.
5. All recommendations contained within the submitted "Tree Survey and Arboricultural Report" dated November 2008 shall be fully undertaken to the satisfaction of the Council as Planning Authority.
6. Prior to the commencement of development, details of the proposed new planting as outlined in the Tree Report shall be submitted and agreed in writing by the Council as Planning Authority.
7. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species to the satisfaction of the Planning Authority.

8. A Right Of Way (Dryside Road) runs along the southern boundary and access to the development. The track shall be kept free from obstruction during building works and on completion of the development and any damage done to the route shall be reinstated to the satisfaction of the Council as Planning Authority prior to the sale or occupation of the dwellinghouse.
9. Details of the specification and colour of the proposed shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The details as approved shall be implemented prior to the occupation and/or use of the development.
10. Details of the proposed boundary treatments for the site shall be submitted for the approval of the Planning Authority prior to the commencement of the development/use and such scheme as may be approved shall be completed prior to the occupation of the development.

Reasons for Conditions

1. In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. To ensure that the development is carried out in accordance with the plans approved.
- 3-4. In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 5-6. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
7. In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.
8. To ensure continued public access along the Right of Way.
- 9-10. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

Justification

The proposals are in accordance with the development plan and there are no material planning reasons for not approving them.

Notes

1. No work shall be commenced until an application for building warrant has been submitted and approved.
2. 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.
3. 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.

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

08/01803/2

08/01803/3

08/01803/4

08/01803/5

08/01803/6

WE HEREBY CERTIFY THAT THIS IS THE PLAN / A TRUE COPY OF THE PLAN REFERRED TO IN CONNECTION WITH THE APPLICATION FOR PLANNING PERMISSION / BUILDING WARRANT

AMENDED
05 FEB 2010
REF 08/01803/Full

PL	REV.	DATE	DESCRIPTION
PL	02.02.10	SUPERSEDES DRAWING 4324.C.028	
	<input type="checkbox"/>	SKETCH PROPOSAL	<input type="checkbox"/> CLIENT APPROVAL
	<input type="checkbox"/>	PLANNING	<input type="checkbox"/> BUILDING WARRANT
	<input type="checkbox"/>	BILLING	<input type="checkbox"/> TENDER
	<input type="checkbox"/>	CONSTRUCTION	<input type="checkbox"/> AS-BUILT

M&S Character Homes
16 SOUTH STREET - MELNASHOTT - GARDEN AREA AT
1, 01 577 8604

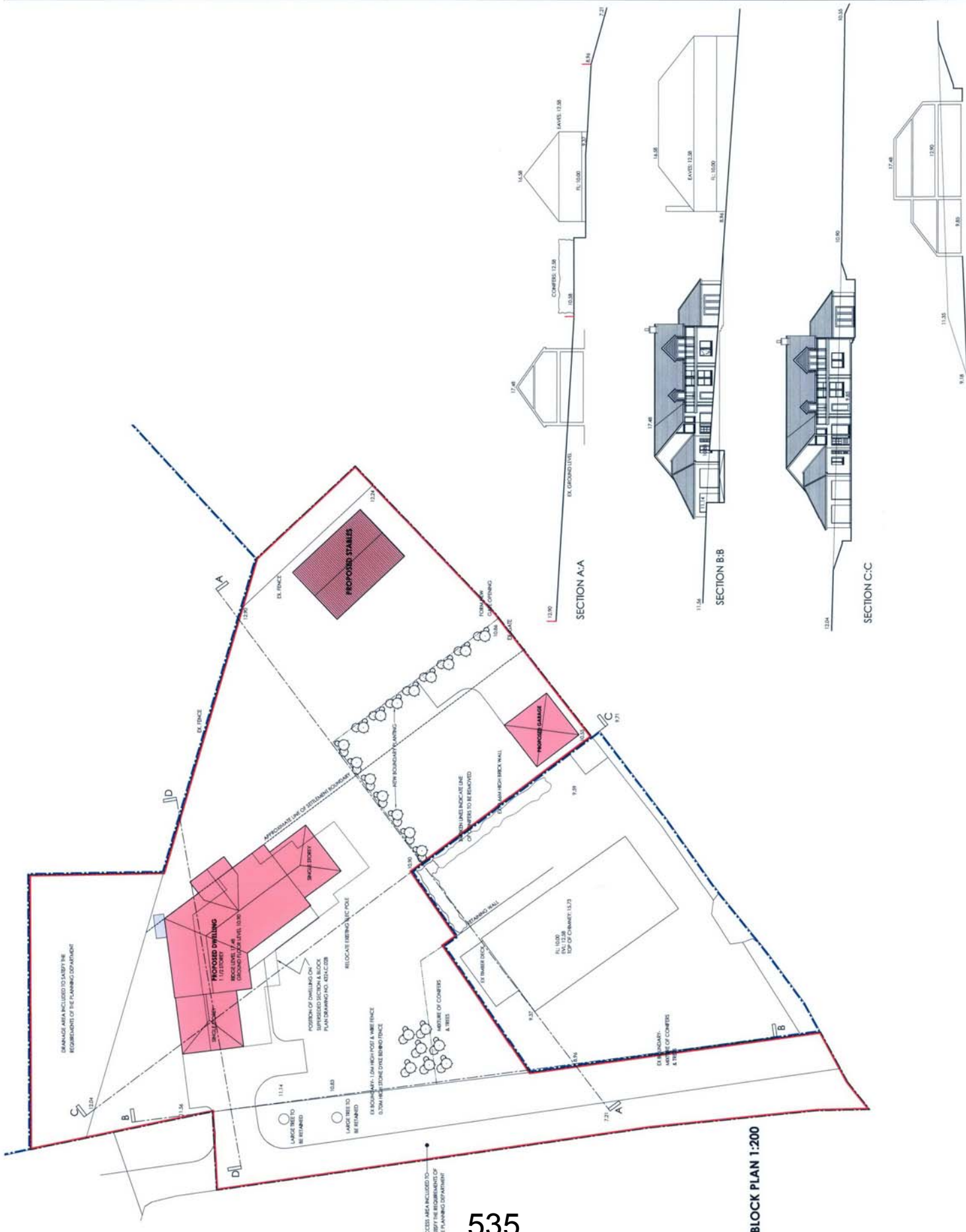
PROJECT
PROPOSED NEW DWELLING IN GARDEN AREA AT
BALNEATHIL HOUSE, EASTER BALGEBIE

CLIENT
MR & MRS P. FONICIELLO

DRAWING TITLE
PROPOSED SITE BLOCK PLAN

DATE
02 FEBRUARY 2010

SCALE
1:200 @ A1



535

BLOCK PLAN 1:200

ACCESS AREA INCLUDED TO
SANSIFY THE REQUIREMENTS OF
THE PLANNING DEPARTMENT

DETAILED AREA INCLUDED TO SATISFY THE
REQUIREMENTS OF THE PLANNING DEPARTMENT

PROPOSED DWELLING
1.5 STOREY
GROUND TO 2.0M LEVEL (10.70)

PROPOSED GARAGE
1 STOREY
GROUND TO 2.0M LEVEL (10.70)

PROPOSED STABLES

SECTION A-A

SECTION B-B

SECTION C-C

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REPORT OF HANDLING

DELEGATED REPORT

Ref No	12/01745/IPL
Ward No	N8- Kinross-shire

PROPOSAL: Erection of a dwellinghouse (in principle)

LOCATION: Balneathill House Easter Balgedie Kinross KY13 9HQ

APPLICANT: Mr P Foniciello

RECOMMENDATION: REFUSE THE APPLICATION

SITE INSPECTION: 4 March 2013

OFFICERS REPORT:

Brief Description

The application site is a 0.1ha area of ground that comprises part of the wider curtilage of a previously approved dwellinghouse under planning consent 08/01803/FLL at Balneathill House, Easter Balgedie located 5km east of Kinross. The site is bounded by residential properties to the west and south west, a farm and farm access track to the south and south east and open countryside to the north and north east. There is an existing stable building and hardstanding on the application site.

This is an application in principle for the demolition of an existing stable building and associated hardstanding and the erection of a new one and a half storey dwellinghouse. Indicative plans and elevations have been submitted in support of the application.

Assessment

The application site is partly within the settlement boundary and it has been indicated that it is possible to site the house within the settlement. It is considered therefore that on this basis a house on the site is acceptable provided all other material planning issues can be satisfied. The plot size is large enough to provide enough amenity ground and a house can be positioned and designed to avoid posing any privacy concerns for neighbouring property.

The application site is within the Loch Leven Catchment Area and the applicant's agent has provided phosphorus mitigation calculations indicating that there is capacity within the sewage treatment plant provided for in the approved dwellinghouse under application 08/01803/FLL, which is within the

applicant's ownership and subject to a Section 75 Agreement. It is considered therefore that phosphorus can be mitigated to the Loch Leven Catchment Area. Any existing Section 75 Agreement within the applicant's land holding would need to be varied to include a further dwellinghouse to ensure the treatment and maintenance of the infrastructure for phosphorus mitigation.

There were concerns raised about the safety of the existing access onto the A911, however it is considered that as an existing access servicing the farm and other residential properties that this could not be posed as a reason for refusal.

The development is in an area with private water supplies (Easter Balgedie Supply & Balneathill Farmhouse Supply) known to serve properties in the vicinity. The applicant has indicated that they will connect to the mains in this application however it should be noted in 12/00943/IPL the intention was to connect to a private water supply. A condition on any consent would ensure that any new development has an adequate and consistently wholesome supply of water and / or to maintain water quality and supply in the interests of residential amenity and ensure the private water supply or septic drainage systems of neighbours of the development remain accessible for future maintenance.

The proposed dwellinghouse is on land which is located in close proximity to existing agricultural and livestock buildings associated with Balneathill Farm to the south. A previous application (PK12/00943/IPL) for the erection of a dwellinghouse on the same site as the current application was withdrawn, and the latest submission illustrates a change in dwellinghouse layout and position. Despite the repositioning of the dwellinghouse to the west of the site, further away from the agricultural buildings it is reiterated that Environmental Health do not consider that this is a suitable location due to the close proximity to the working farm at Balneathill. It is likely that future occupiers of the house, if the application is approved, would be subjected to noise, odours and dust at various times of the year and this would adversely affect the residential amenity of the house. The Code of Good Practice Prevention of Environmental Pollution from Agricultural Activity recommends that residential housing should be at least 400 metres from buildings used to house livestock. In this case the house will be substantially closer than this and although there are other houses (including the applicant's own property) in close proximity to the farm buildings, the proposed house will be closer than any of the existing residential properties and the site is not suitable for a dwellinghouse. Also a house in this location would also prejudice the working of the existing Balneathill Farm. This point was raised by Balneathill Farm in their letter of objection to the proposal.

It is considered that despite the principle of the proposed house being broadly acceptable in terms of the Development Plan the Environmental Health concerns in relation to the proximity of the proposed dwellinghouse to the working farm and livestock sheds indicate that the site is not a suitable one for a dwellinghouse and it is therefore recommended for refusal.

DEVELOPMENT PLAN

Kinross Area Local Plan 2004

The application site falls partly within the small settlement boundary of Easter Balgedie and partly outwith the settlement in the countryside and within an area designated as an Area of Great Landscape Value.

Main policies:-

Policy 2: Development Criteria
Policy 11: Loch Leven Catchment Area
Policy 12: Loch Leven Catchment Area
Policy 48: General Land Use
Policy 50: Agriculture
Policy 54: Area of Great Landscape Value
Policy 64: Housing in the Countryside
Policy 94: Residential Character _ Amenity

Perth and Kinross Proposed Local Development Plan (PLDP) 2012

Easter Balgedie is not specifically identified in the Proposed Local Development Plan with a settlement boundary.

RD3: Housing in the Countryside
ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes.

Other Policies:

Perth and Kinross Council Housing in the Countryside Policy 2009

Education Contributions Planning Guidance Note - Developer Contributions
May 2009

Across Scotland local authorities are having difficulty maintaining and

SITE HISTORY

08/01803/FLL Erection of a dwellinghouse 27 April 2010 Application Permitted

12/00943/IPL Erection of a dwellinghouse (in outline) 27 July 2012 Application Withdrawn

CONSULTATIONS/COMMENTS

Scottish Water No objections

Education And Children's Services No objections

Environmental Health Objections on grounds of residential amenity

TARGET DATE: 1 December 2012

REPRESENTATIONS RECEIVED:

Number Received: 6

Summary of issues raised by objectors:

6 letters of representation were received including one from Portmoak Community Council and Kinross - Shire Civic Trust. Main issues raised:-

- the proposed house would be located close to a working farm
- the proposed house would compromise the amenity and privacy of Balneathil House
- the proposed house style would not complement nearby neighbouring properties
- increased traffic and impact on road safety with poor access onto A911
- increase in flood risk
- impact on the character of the hamlet
- contrary to local plan policy
- the application site is not a brownfield site

Response to issues raised by objectors:

In report

Additional Statements Received:

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

Direction by Scottish Ministers
None

Reasons:-

- 1 The proposed new dwellinghouse is in close proximity to Balneahill Farm which is a working farm and as such would be subjected to noise, odours and dust at various times of the year which would have an adverse affect on the residential amenity of a dwellinghouse in this location.
- 2 The proposed siting of a dwellinghouse in this location in close proximity to the adjacent Balneathill Farm will prejudice the working practices of this farm, contrary to Policy 50 of the Kinross Area Local Plan 2004.

Justification

- 3 The proposed dwellinghouse by virtue of it's proximity to a working farm will have an adverse impact on the residential amenity of the occupiers of the development and will prejudice farming practices.

Notes

Memorandum

To:		From:	Euan McLaughlin
Your ref:	12/01745/IPL	Our Ref:	12/01745/IPL
Date:	12 October 2012	Tel No:	75381

Planning & Transportation

Pullar House 35 Kinnoull Street Perth PH1 5GD

Town and Country Planning (Scotland) Act 1977 as amended by Planning etc (Scotland) Act 2006

Erection of a dwellinghouse (in principle) Balneathill House Easter Balgedie Kinross KY13 9HQ for Mr P Fonciello

In response to your consultation on the above application I would advise as follows:

History

Permission was granted under 08/01803/FUL for the erection of a single dwellinghouse, garage and stable building. A previous application for this site (12/00943/IPL) which indicated an alternative building footprint was withdrawn. This application proposes a new dwelling within the garden curtilage of this permission and the removal of the stable building.

Kinross Area Local Plan 2004

Easter Balgedie has an identified settlement boundary. The supplied indicative layout shows the built development within the settlement boundary but taken as a whole the majority of the site extends outwith this boundary and into the adjacent Area of Great Landscape Value.

In terms of the adopted plan the following policies have main relevance:

- Policy 48 – General Land Use
- Policy 54 – Area Great landscape Value
- Policy 94 – Small Settlements

Policy 48 identifies that built development should not be located adjoining and outwith those settlements which are subject of inset maps. The indicative layout provided shows the new development would be contained completely within the settlement boundary with the garden ground extending out with the boundary reflecting existing use. Whilst this application is in principle and the location of the dwelling not finalised it is considered that the proposed dwelling could be contained within the defined settlement boundary and would be acceptable in terms of Policy 48.

Policy 54 requires that all applicants for planning consent within the area will require to submit detailed plans of buildings showing the elevations of new development in its landscape setting together with details of landscape enhancement measures. The proposed siting of the new dwelling does not fall within the AGLV and details of the proposed new

dwelling are provided. The land which falls into the AGLV is proposed as garden ground reflecting existing use so is considered acceptable.

Policy 94 indicates that within small settlements there may be some scope for small scale residential and compatible development provided this will not adversely affect density, character or amenity of the settlement and where a range of criteria are met. There is no objection to the proposal in terms of this policy.

Easter Balgedie is within the Loch Leven Catchment Area and the proposal considered in line with the relevant drainage policies.

Overall it is considered that this proposal is acceptable in policy terms when considered against the Kinross Area Local Plan 2004.

Proposed Local Development Plan 2012

Easter Balgedie is not specifically identified in the Proposed Local Development Plan with a settlement boundary.

Policy RD3 deals with housing in the countryside, which is supplemented by the Housing in the Countryside Guidance.

Comments

It is generally the case that the adopted Local Plan has primacy over the Proposed Local Development Plan. The adopted Local Plan will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption.

Depending on the results of the Period for Representations, 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.

Regards
Euan McLaughlin

Memorandum

To	Development Quality Manager	From	Environmental Health Manager
Your ref	12/01745/IPL	Our ref	IW
Date	22 October 2012	Tel No	(01738) 475 235

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission PK12/01745/IPL RE: Erection of a dwellinghouse (in outline) Balneathill House Easter Balgedie Kinross KY13 9HQ for Mr P Foniciello

I refer to your letter dated 4 October 2012 in connection with the above application and have the following comments to make.

Recommendation – Environmental Health

I cannot support the application due to loss of amenity arising from neighbouring / nearby land use.

Comments

Noise/Odour

The applicant proposes to erect a dwelling house on land which is located in close proximity to existing agricultural and livestock buildings associated with Balneathal Farm, to the south. I note that a previous application (PK12/00943/IPL) for the erection of a dwellinghouse on the same site as the current application was withdrawn, and the latest submission illustrates a change in dwellinghouse layout and position.

Despite the repositioning of the dwellinghouse to the west of the site, further away from the agricultural buildings I would like to reiterate my colleague's previous concerns in that I do not believe this is a suitable location due to the close proximity to the working farm at Balneathal.

It is likely that future occupiers of the house, if the application is approved, would be subjected to noise, odours and dust at various times of the year and in my opinion this would adversely affect the residential amenity of the house.

The Code of Good Practice "Prevention of Environmental Pollution from Agricultural Activity" recommends that residential housing should be at least 400 metres from buildings used to house livestock.

In this case the house will be substantially closer than this and although there are other houses (including the applicant's own property) in close proximity to the farm buildings, the proposed house will be closer than any of the existing residential properties.

In view of the above and in order to maintain a level of consistency with previous (PK12/00943/IPL and PK08/01803/FLL) and future applications of this nature it is my opinion that this site is not suitable for a dwelling house and I therefore cannot support the application.

Recommendation - Water

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

The development is in an area with private water supplies (Easter Balgedie Supply & Balneathill Farmhouse Supply) known to serve properties in the vicinity. The applicant has indicated that they will connect to the mains in this application however it should be noted in 12/00943/IPL the intention was to connect to a private water supply. To ensure the new development has an adequate and consistently wholesome supply of water and / or to maintain water quality and supply in the interests of residential amenity and ensure the private water supply or septic drainage systems of neighbours of the development remain accessible for future maintenance please note the following condition and informatives. No public objections relating to the water supply were noted at the date above.

Condition

Prior to commencement of site works, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways / private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The approved protective or replacement measures shall be put in place before the site works commence and shall be so maintained throughout the period of construction.

Informative

The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.



13.12 The use of appropriate practices allied to good planning and management of both new and existing installations/structures can help minimise the risk of causing a nuisance. The aim is to contain the smell within the farm buildings or surrounding agricultural land by reducing emissions at source and allowing the diluting effect of air movement and distance to complete its dispersion.

Biological treatments

13.13 Biological treatment of slurry and manures by anaerobic or aerobic techniques has proved successful in significantly reducing odour emissions in certain circumstances and it may be worth considering the use of such treatments to tackle specific or severe problems. Further advice on this can be found in Appendix 1 to this section.



Minimising odour from livestock buildings

13.14 When designing new buildings, consider their siting in relation to residential accommodation, and avoid sites within 400m of such developments. Where possible, sites downwind of residential areas should be chosen. Ensure buildings are properly ventilated to control temperature, humidity and the concentration of gases, and to provide a good distribution of clean air under a wide variety of external weather conditions. Ventilators should be thoroughly cleaned between batches of stock and maintained to ensure operation at the correct airflow for the stock requirements. The removal of

dust will help to reduce the level of odour. Humid conditions caused by poor ventilation result in smells and the build up of high levels of ammonia.

13.15 Professional advice should be sought on the positioning of ventilator outlets. The higher the outlet, the greater the dilution factor from air movement. Ventilator outlets positioned along the sides of buildings, below slatted floors and immediately over slurry collection channels can result in poorer dispersion of odours. The use of bioscrubbers, biofilters and tall chimneys as exhaust ventilators for odour removal can be effective technologies, but they are expensive and it is generally better to control odours at source.

13.16 To control odour, it is essential to maintain a high standard of hygiene and cleanliness:

1. plan the collection and storage of slurry and manure (see Section 4 for further details);
2. minimise open concrete areas used for livestock. Drainage arising from this area must drain to the slurry storage system. It should not be allowed to run off on to roads where evaporation will increase smells, in addition to posing a road safety risk;
3. maintain or replace drinking systems to avoid overflow and spillage which leads to wet, smelly areas, increased levels of waste production, slurry dilution or wet poultry litter or bedding;
4. clean livestock buildings regularly and thoroughly using the correct type and quantity of disinfectant and volumes of wash water;
5. ensure that all cleaning material/drainage water is collected. Never discharge wash waters to watercourses as these can give rise to conditions, giving rise to odour. Contact SEPA for advice on suitable disposal arrangements; and





TCP/11/16(249)

Planning Application 12/01745/IPL – Erection of a dwellinghouse (in principle) at Balneathill House, Easter Balgedie, Kinross, KY13 9HQ

PLANNING DECISION NOTICE *(included in applicant's submission, see pages 529-530)*

REPORT OF HANDLING *(included in applicant's submission, see pages 537-541)*

REFERENCE DOCUMENTS *(part included in applicant's submission, see pages 525-527)*

PLANNING STATEMENT
FOR
PROPOSED NEW DWELLING
TO LAND NORTH EAST OF BALNEATHILL HOUSE,
EASTER BALGEDIE
KINROSS KY13 9HQ

SEPTEMBER 2012

INTRODUCTION

The proposal involves the demolition of an existing stable building and associated hardstanding and replacement with a new detached dwelling of 1 & 1/2 storey design. The application site extends to 1,025m² which currently forms part of the larger curtilage of the dwellinghouse previously approved under Planning Permission ref. 08/01803/FLL at Balneathill House, Easter Balgedie.

The application is for Planning Permission in Principle although the site is adjacent to an Area of Great Landscape Value (AGLV) and, as such, house type plans & elevations have been included with the application documents.

CONTEXT

The following properties/ features are adjacent to the proposed site:-

North: Paddock forming part of the Applicant land holding.

East: 'Balneathal farm' - an operational livestock farm.

South: 'Colzie House' - a two storey detached dwelling.

West: 'Balneathill House' – a 1 storey & attic detached dwelling



PLANNING POLICY

The application site lies within the small rural village of Easter Balgedie, approximately 6km due East of the town of Kinross. Easter Balgedie is defined as a small settlement in the 2004 Adopted Kinross Area Local Plan (2004 KALP).

The proposed dwelling is positioned wholly within the village settlement boundary outlined in 2004 KALP and the site is appropriate for residential development of a scale & design in keeping with neighbouring properties.

The following policies contained within the 2004 Adopted Kinross Area Local Plan are specifically relevant to this application for Planning Permission in Principle (other general & background policies exist):-

- Policy 11: Phosphorous mitigation in the Loch Leven catchment area
- Policy 13- Private sewage treatment plants
- Policy 54- Area of Great Landscape Value
- Policy 94: Small scale housing & compatible development in small settlements

Policies 11 & 13

The proposed dwellinghouse is located in the garden ground of a new dwellinghouse previously approved (ref. 08/01803/FLL) for development. The previous approval includes the provision of a new Biodisc sewage treatment unit to treat the effluent from both the new dwelling and the existing dwelling at Balneathill House, thereby reducing the extent phosphorous discharge compared with the existing situation. The proposed sewage treatment unit is also the subject of a Section 75 agreement between the Applicant and the Local Authority to ensure that the unit remains under sole ownership as required by planning policy 13 of the 2004 KALP.

It is proposed that the additional dwelling which is the subject of this application is also connected to the new BioDisc sewage treatment unit and that the unit & associated soakaway are designed to accommodate an increased capacity of 20P (3 no. 4 bedroom dwellings = 18P).

Furthermore there is no requirement to enter into a new Section 75 agreement as the Applicant for this application is the named party in the existing Section 75 agreement.



Policy 94

Policy 94 indicates that within small settlements there may be some scope for small scale residential development provided that development will not adversely affect the density, character or amenity of the settlement.

In terms of density, the proposal incorporates a detached dwellinghouse sited on a building plot which measures 1,025 sq.m. The proposal would lie adjacent to the existing dwellinghouse on a site which would extend to 1,099 sq.m and the approved dwellinghouse on a site which would extend to 1,571 sq.m. In terms of density the building plot is in keeping with adjacent densities.

The character & amenity of the settlement are largely unaffected by the proposal as the application site lies at the fringe of the settlement boundary and is not easily viewed on any approach to the settlement by public road, as it is screened to the East, West & South by detached dwellings.

ENVIRONMENTAL HEALTH POLICY

A previous application for this site (12/00943/IPL), which indicated an alternative building footprint to the North of the site, was withdrawn due to concerns raised by the Environmental Health department regarding the proximity of the dwelling to the adjacent farm buildings.

This revised application shows the dwelling footprint repositioned to the South of the site, wholly within the village settlement boundary of Easter Balgedie and further from the adjacent agricultural building.

When considering the location for new livestock buildings The Code of Good Practice "Prevention of Environmental Pollution from Agricultural Activity" states under section 13.14 *'When designing new (livestock) buildings, consider their siting in relation to residential accommodation, and avoid sites within 400m of such developments. Where possible, sites downwind of residential areas should be chosen.'*

In relation to this application:-

- The proposal is not for a new livestock building
- All of Easter Balgedie village, including the application site, is within 400m of Balneathal Farm
- Balneathal Farm is upwind of the application site for prevailing South Westerly wind direction
- The application site is already approved for use as private garden amenity space
- The agricultural building adjacent to the application site is predominantly not used for housing livestock.



SUMMARY

The application site lies wholly within the garden ground of the dwellinghouse previously approved (ref. 08/01803/FLL) and as such the land is appropriate for residential use.

The proposed building plot extends to 1,025 sq.m, and is of sufficient size to accommodate a detached dwelling. The dwelling has been designed using roof dindows at first floor level ensuring that the proposal does not create any overlooking/ privacy issues to the existing dwelling.

The proposed site currently accommodates a stable building & hardstanding which would be demolished.

A private water for the proposed dwelling would be taken from the new private borehole to the North of the application site, to avoid any reduction in mains water pressure to neighbouring property.

A proposed private sewage treatment plant, located in adjacent land owned by the applicant and subject of an existing Section 75 agreement, can be installed to provide a capacity for 3 dwellings, thereby mitigating any additional phosphorous discharge.



TCP/11/16(249)

Planning Application 12/01745/IPL – Erection of a dwellinghouse (in principle) at Balneathill House, Easter Balgedie, Kinross, KY13 9HQ

REPRESENTATIONS

- Representation from Planning & Transportation, dated 12 October 2012 (*included in applicant's submission, see pages 543-544*)
- Objection from Mr and Mrs O'Kane, dated 16 October 2012
- Objection from Environmental Health Manager, dated 22 October 2012 (*included in applicant's submission, see pages 545-546*)
- Objection from Kinross-shire Civic Trust, dated 23 October 2012
- Objection from Transport Planning, dated 24 October 2012
- Objection from Callum Robertson, dated 24 October 2012
- Objection from Mr and Mrs Lindsay, dated 24 October 2012
- Objection from Mr and Mrs Dall, dated 26 October 2012
- Objection from Portmoak Community Council, dated 1 November 2012
- Representation from Portmoak Community Council, dated 11 May 2013
- Agent's response to representation, dated 24 May 2013

Colzie House,
Easter Balgedie,
By Kinnesswood.
KY13 9HQ

16th October, 2012

Planning and Regeneration,
FAO Mr Nick Brian,
Pullar House,
35 Kinnoull Street,
Perth.
PH1 5GF

Dear Sir or Madam,

We should like to object to **Planning Application 12/01745/IPL**.

Our understanding of the background to this and recent planning applications relating to this site is as follows:

On 23 April 2010 planning permission was granted to Mr Foniciello and Ms Galloway (spouse) for the building of a large two storey house comprising a floor area of 280m² and a double garage and, elsewhere on their land, a stable block (Planning Reference: 08/01803/FLL), all adjacent to their present home. At this time the two storey house and double garage remain unbuilt. The pre-fabricated stable block has been in situ now for less than two years.

During June, 2012 Mr Foniciello and Ms Galloway (spouse) submitted a planning application in principle (Reference: 12/00943/IPL). We understand that this application was withdrawn for two reasons: firstly because detailed plans did not accompany the application and secondly because of environmental concerns. The environmental concerns relate to the proposed house being situated within and close to a working farm.

We note from looking at the most recent application (Ref.: 12/01745/IPL) that it is still Mr Foniciello's intention to demolish an 18 month old stable block even though it has recently obtained planning permission.

Our Objections:

1. The proposed dwelling does not address any of the environmental concerns expressed by the planning officer in the June, 2012 application (Reference: 12/00943/IPL) for a house on the same site. Mr Foniciello and Ms Galloway have simply moved the footprint of the proposed house. The proposed dwelling would still be located close to a working farm. Moreover, the proposed access would be from within the farmyard itself.

2. The proposed dwelling would compromise the amenity and privacy of the existing Balneathill house (which Mr Foniciello and Ms Galloway are currently trying to sell) and of the approved dwelling (which, we understand, Mr Foniciello and Ms Galloway propose to live in).

3. The proposed dwelling is of a style which would not complement nearby existing properties, nor other properties within the existing hamlet.

4. The proposed development would result in a material increase in vehicle movements entering and leaving the traffic stream on the A911 at a point where the applicants have no control over reducing either the height of the wall on the one side or the widening of the entrance/exit on the other side, in order to improve visibility. Their proposed development would therefore conflict with the objectives of Policy 2 of the adopted Kinross Area Local Plan 2004. Mr Foniciello and Ms Galloway (spouse) are well aware of this since it formed part of the objections Ms Galloway herself raised to a recent planning application submitted by ourselves.

5. Perth and Kinross Council have already refused another recent planning application on the basis of 4 above (ref.: 11/00922/IPL).

6. Any further development of the land owned by Mr Foniciello and Ms Galloway will increase the likelihood of flooding which is already a problem affecting Balneathil farm road and its junction with the A911. It will also increase significantly the already high volume of traffic which uses the same farm road.

7. Contrary to sentence 1 of the Planning Statement submitted on behalf of Mr Foniciello by Scott Strachan, Architects, for the initial planning application (Ref.: 12/00943/IPL) we understand that the site of the proposed house is not located on "garden ground" but rather on agricultural ground. In this context, we are unaware of any change of use having been granted to the applicants.

8. The proposed development would substantially alter the character of the existing hamlet. It would also lead to an unnecessary housing development.

In closing, we hope that the Council will display consistency in its response to this application.

Yours faithfully,

Anne & Mike O'Kane

KINROSS-SHIRE CIVIC TRUST

Helping protect, conserve and develop a better built and natural environment

Ashtrees
Wester Balgedie
KINROSS
KY13 9HE

23rd October 2012.

Mr Nick Brian
Perth and Kinross Council
Development Control
Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Dear Mr Brian

12/01745/IPL: Erection of a dwellinghouse (in principle) at Balneathill House Easter Balgedie Kinross KY13 9HQ

The Civic Trust would wish to object to this Planning Application, as it did to the original application 12/00943, subsequently withdrawn.

The Civic Trust would wish to object to this application on a number of counts.

Firstly, part of the proposal is to demolish a newly built stable block, which can hardly be considered as being redundant as it has just been constructed and therefore the site can hardly be defined as an old Brownfield site.

Secondly, in the original application there was an objection to the application on environmental health grounds due to its proximity to sheds housing livestock. This has not changed.

The third concern is the access road onto the A911, which the Roads department has continually recognised as a dangerous one and way below standards. Any new dwelling will simply exacerbate the danger of accessing onto a very fast road and the potential for serious accidents.

Finally, the design of the house is totally inappropriate to its surroundings and the other houses round about. It really should be a single storey dwelling.

Yours sincerely

For and on behalf of Kinross-shire Civic Trust
Cc PKC Local Members

Chairman – Mr Alistair Smith, Treasurer – Mr Ken Miles, Secretary - Mrs Eileen Thomas
http://planningapps.pkc.gov.uk/online-applications/files/FB875DCCDDF57728059107A2980877F8/12_01745_IPL-OBJECTION_COMMENT__KINROSS-SHIRE_CIVIC_TRUST_-500439.doc



MEMORANDUM

To	Mark Williamson Planning Officer	From	Niall Moran Transport Planning Technician Transport Planning
Our ref:	NM	Tel No.	Ext 76512
Your ref:	12/01745/IPL	Date	24 October 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 12/01745/IPL for planning consent for:- **Erection of a dwellinghouse (in principle) Balneathill House Easter Balgedie Kinross KY13 9HQ for Mr P Foniciello**

The proposed house would utilise the existing shared access track from the A911. However, this access has significantly compromised visibility, particularly to the north due to the high wall that forms the boundary of Burnside House.

Therefore, on this basis I recommend refusal of this application.

I trust these comments are of assistance.

Perth and Kinross Council
Planning and Regeneration
Polar House
35 Kinross Street
Perth PH1 5QD.



RECEIVED
25 OCT 2012
MGN

Balneathill Farm
Easter Balgedie
Kinross-shire
KY13 9HQ.
24.X.12.



Dear Sir/Madam,
Planning Application Reference: 12/01745/1PL
Erection of a Dwelling House (In Principle).

With reference to the above planning application I write to object to the proposal and, as such, make the following points;

- Currently there are 6 existing houses and one site with full planning permission along with the movement of plant and machinery associated with a mixed farm being served by an un-metalled farm road without passing places. The visibility splay at the entrance/exit on to the A911 is very poor. Despite recent speed reduction measures being put in place, which would suggest Perth and Kinross Council was aware and acknowledged the danger of this section of road, I would suggest that the access road requires up-grading to include passing places and an improved visibility splay onto the A911. Para 72 notes existing access points should be modified as appropriate to improve sight-lines.

- The Applicant, whilst acknowledging the environmental issues posed by building within 400 m of agricultural livestock buildings, is still proposing to erect a dwelling house within 30 m of a livestock shed. This is significantly closer than any other residential properties within the Easter Balgedie settlement. It should be noted that the livestock building is in regular use for up to 6 months of the year housing livestock.

• The site, as stated, lies within the grounds of an approved dwelling house (Ref (08/01803/FLH)). Erection of another property within this site will impact on the area of the approved dwelling house. Erection of a second 5 bedroom property will adversely effect the density, character and amenity of both the settlement and the setting of the previously approved house which, to date, has not been constructed. This is not in-keeping with Policy 94.

• The Applicant's Planning Statement acknowledges the application site lies on the fringe of the settlement boundary and is not easily viewed from the public road as it is screened to the south, east and west by detached dwellings. The Applicant would seem to acknowledge that the application therefore constitutes "back-land development".

• The proposal requires the demolition of a recently constructed and structurally sound stable block.

• The proposed development will overload the capacity and the infrastructure of the access road and, as such, is contrary to the requirements of Plan 72 New Housing in the Countryside.

Yours faithfully,



CALLUM ROBERTSON.

MOW

Balgedie House, Easter Balgedie, By Kinross, Kinross-shire KY13 9HQ

24th October, 2012

RECEIVED

29 OCT 2012

Dear Mr. Brian,

Planning Application 12/01745/IPL

We wish to object to the above planning application for the following reasons:

1. One of the principal reasons for the rejection of planning application 11/00922 (Colzie House, Easter Balgedie) was the dangerous access to the A911. Exactly the same access to the A911 will be used by the proposed dwelling. The danger is due to the inadequate visibility of traffic approaching on the A911 from the Wester Balgedie/Milnathort direction. This situation has not changed since 11/00922 was rejected. We recommend that this application be turned down for the same reason.
2. In their objection to the previous planning application from the owners of Balneathill House (08/01083), the P & K Council's Environment Service stated that the Code of Good Practice "Prevention of Environment Pollution from Agricultural Activity" recommends that new residential housing should be at least 400 metres from buildings used to house livestock. The proposed dwelling will be approximately 40 metres from such a building.

It is not accurate to claim that "the agricultural building adjacent to the application site is predominantly not used for housing livestock". It is used for this purpose every winter.

3. We feel that the design of the proposed dwelling is completely out of character with other houses in Easter Balgedie. Our understanding is that housing in the Area of Great Landscape Value should demonstrate a high quality of design appropriate to the area.

Yours sincerely,



A. J. & B. M. Lindsay

Mr. N. Brian,
Development Control,
Perth & Kinross Council,
35 Kinnoull Street,
Perth PH1 5GD.



MOW

**Drovers Way
Easter Balgedie
Kinnesswood
By Kinross
KY13 9HQ**

26th October 2012

RECEIVED
30 OCT 2012

Mr Nick Brian
Perth & Kinross Council
Development Control
Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

RECEIVED
30 OCT 2012

Dear Mr Brian

OBJECTION to Planning application 12/01745/IPL: Erection of a dwelling house(in principle) next to Balneathill House, Easter Balgedie, Kinross, KY13 9HQ

We wish to object to the planning application 12/01745/IPL on the following points:

- 1) The proposed property is totally out of character for the hamlet
- 2) The proposed property location is extremely close to livestock buildings
- 3) Flooding/poor drainage from Mr Foniciello and Ms Galloway's land is already an issue

Yours sincerely



Mr & Mrs T Dall

ENTERED IN COMPUTER
30 OCT 2012

Portmoak Community Council

c/o Kantara
Wester Balgedie
Kinross KY13 9HE

1st November, 2012

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



Dear Mr Brian

12/01745/IPL

**Balneathill House, Easter Balgedie, Kinross KY13 9HQ
Erection of a dwellinghouse in outline**

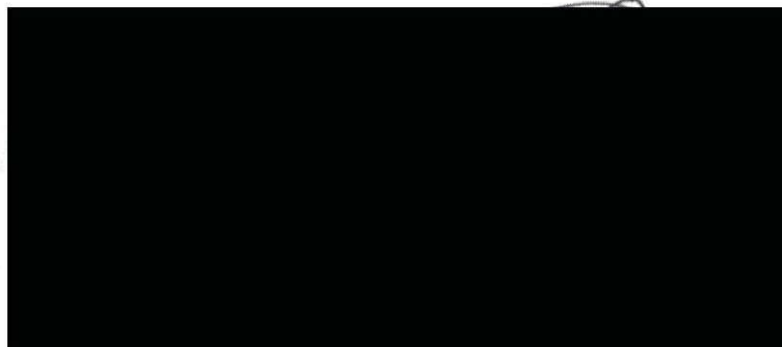
This application is for the erection of a dwellinghouse in principle at Easter Balgedie. The Community Council notes that a recent application for a dwelling house in principle on the same site (12/00943/IPL) was withdrawn.

Portmoak Community Council objects to the current application for the following reasons:

1. **Area of Great Landscape Value.** The plans submitted do not (as required by Policy 54 of the Kinross Area Local Plan) provide details of the development in its landscape setting together with landscape enhancement measures.
2. **Highway safety.** Visibility from the access lane junction with the A911 to the north towards Milnathort is restricted by a 2m high stone wall forming a boundary with Burnside House. This, together with a brow of a hill 50m back from the junction, impede notice of on-coming traffic approaching from the Milnathort direction. It is also difficult for large vehicles travelling south on the A911 to turn left into the access lane. Lack of visibility at this junction was a reason for Perth and Kinross Council refusing a recent application for a dwellinghouse using the same access lane (11/00922/IPL). This access junction is currently used by a working farm and four dwellinghouses. There is planning consent for two further dwellinghouses. Portmoak Community Council is concerned at what appears to be an inconsistent approach to road safety in relation to granting planning consent for properties using this junction. The Community Council seeks consistency from Perth and Kinross Council in applying planning decisions in relation to this junction.
3. **Environmental Health.** The proposed plan conflicts with the Code of Good Practice "Prevention of Environment Pollution from Agricultural Activity" which recommends

that new residential housing should be at least 400 metres from buildings used to house livestock. The proposed building will be some 40 metres from such an agricultural building.

Yours sincerely



Robert G Cairncross
for
Portmoak Community Council

Portmoak Community Council

c/o Kantara
Wester Balgedie
Kinross KY13 9HE

11th May 2013

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

Dear Ms Taylor

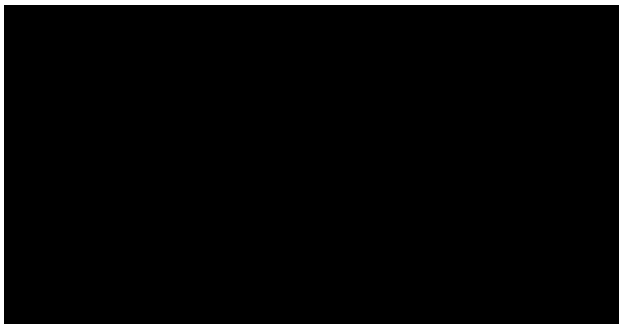
Town and Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2008
Application Ref 12/01745/IPL - Erection of a dwelling house (in principle) at Balneathill House, Easter Balgedie, Kinross KY13 9HQ – Mr P Foniciello

Your ref: TCP/11/16 (249)

Thank you for your intimation of the forthcoming Review.

Portmoak Community Council wishes to affirm its objection to further utilisation of what is a dangerous and shared access/exit junction from and to the track leading from the A911 to the proposed site. This is a matter that has relevance to any further applications which may rely on this access track. We agree that the additional usage consequent on the development of this dwelling house is not desirable and is detrimental to safety.

Yours sincerely



Robert G Cairncross
Portmoak Community Council

CHX Planning Local Review Body - Generic Email Account

From: Mark Myles [mm@mbmplanning.co.uk]
Sent: 24 May 2013 10:27
To: CHX Planning Local Review Body - Generic Email Account
Subject: Re: 12/01745/IPL - Erection of a dwellinghouse at Balneathill House, Easter Balgadie

Thank you for your letter in connection with the above Notice of Review and to the further representation received from Portmoak Community Council.

In terms of a response I would simply re-iterate that the Report of Handling did not include reference to the visibility at the junction of the access as a reason for refusal. Within the Report of Handling the planning officer's professional opinion had been that as it is an existing access servicing the farm and a number of other residential properties, that this could not be included as a reason for refusal.

I understand that the review will be presented to the next LRB meeting on 4th June and I look forward to receiving confirmation of this from you in due course.

Kind regards

Mark Myles
MBM Planning & Development

