

TCP/11/16(264)
Planning Application 13/00585/IPL - Erection of a dwellinghouse (in principle), Land 250 metres south west of 3 Old School, Church Road, Kinfauns

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TCP/11/16(264)

Planning Application 13/00585/IPL - Erection of a dwellinghouse (in principle), Land 250 metres south west of 3 Old School, Church Road, Kinfauns

**PAPERS SUBMITTED
BY THE
APPLICANT**

CHIEF EXECUTIVES
DEMOCRATIC SERVICES

11 JUL 2013

RECEIVED

Notice of Review

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 MR & MRS T BARRATT

Address 3 THE OLD SCHOOL
CHURCH ROAD
KINFANNS

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name BIDWELLS

Address 5 ATHOLL PLACE
PERTH

Postcode PH1 5NE

Contact Telephone 1 01738 630 666

Contact Telephone 2

Fax No

E-mail* steven.cooper@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 13/00585/IPL

Site address LAND 250 METRES SOUTH OF 3 THE OLD CHURCH,
KINFANNS

Description of proposed development ERECTION OF DWELLINGS AND FORMATION
OF VEHICLE ACCESS (IN PRINCIPLES)

Date of application 20/3/13 Date of decision (if any) 14/5/13

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:

ASSESSMENT OF CATEGORY 3.4 OF THE COUNCIL'S MONITORING IN THE COUNTRYSIDE POLICY 2012

Site inspection

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

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" 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:

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 THE ATTACHED STATEMENT OF CASE

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 - COPY OF PLANNING APPLICATION
- ② - EXTRACTS FROM PLANNING APPLICATION 12/00667/1PL
- ③ - STATEMENT OF CASE
- ④ - COMMENT FROM PLANNING REGISTRATION

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:

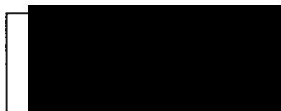
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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.

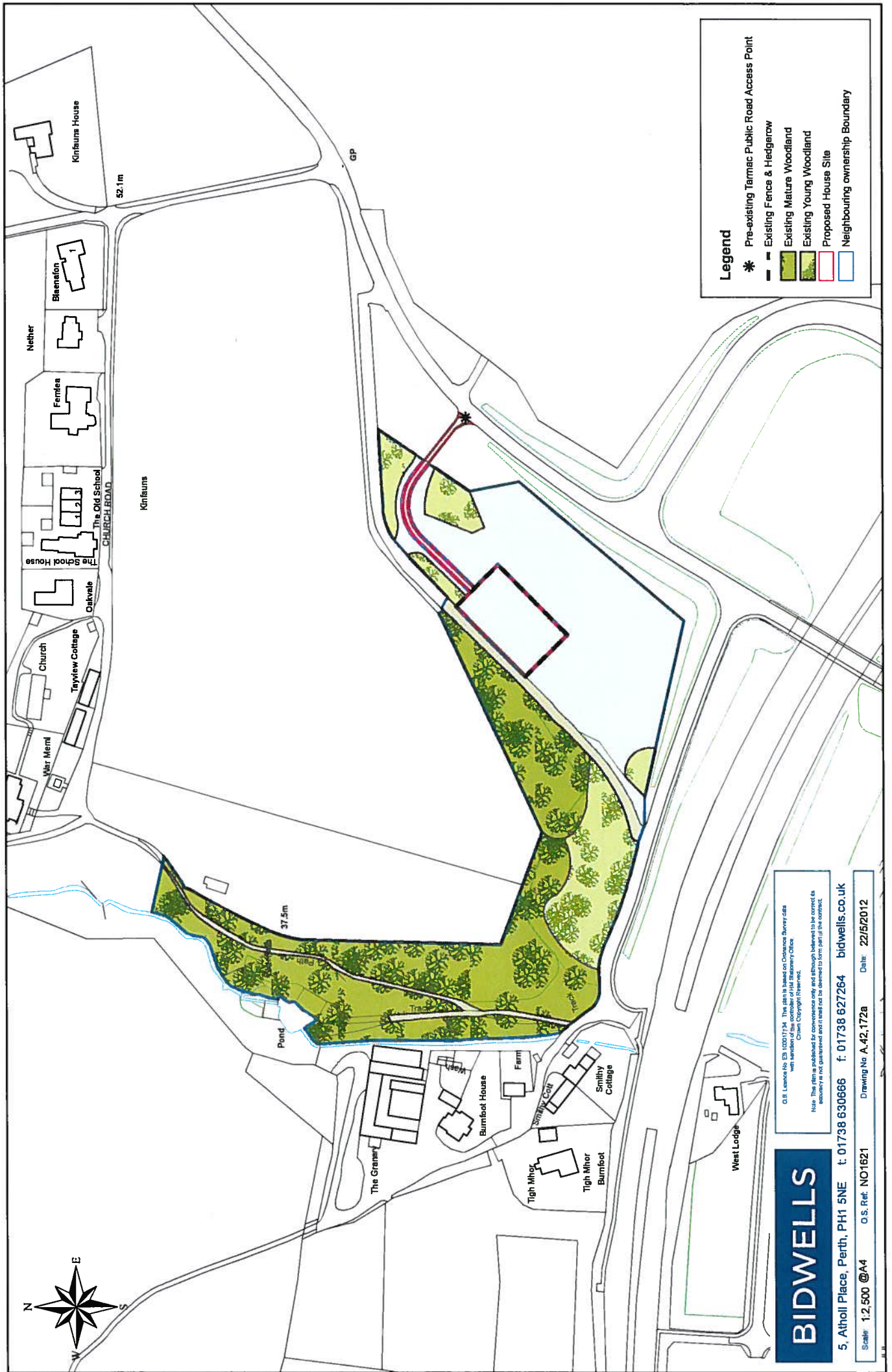
Signed



Date

10 / 7 / 2013

Proposed House Site at Kinfauns



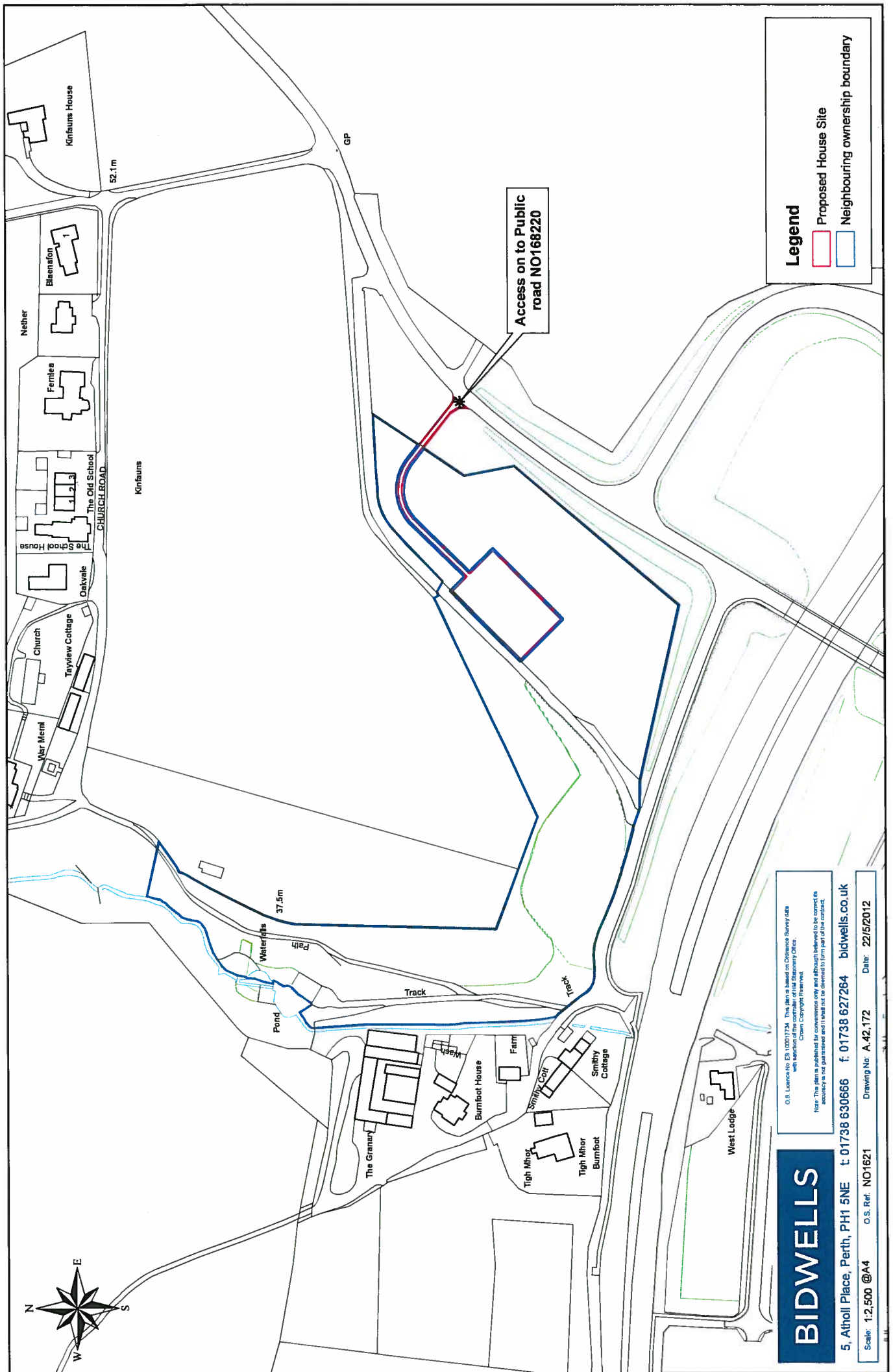
5, Atholl Place, Perth, PH1 5NE t: 01738 630666 f: 01738 627264 bidwells.co.uk

Scale 1:2,500 @A4 O.S. Ref: NO1621 Drawing No A.42.172a Date 22/5/2012

O.S. Licence No. ES 10001734. This plan is based on Ordnance Survey data with permission of the Controller of Her Majesty's Stationery Office. Crown Copyright Reserved.

Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Proposed House Site at Kinfauns



View towards Kinfauns from Rhynd - Roadside

Kinfauns
Site





Sketch Perspective



Orchil

Architectural Consultants

The Barn Meads of Orchil, Millicent, Pembrokeshire, Pembrokeshire PH16 5LR
t: 01796 470082
e: mail@orchilarch.co.uk
w: www.orchilarch.co.uk

Scale(s):	Size:	First Issue:	Drawn:	Checked:
NTS	A3	01/03/13	bhg	jmh
Job no:	Drawing no:	Rev:		
156	01			

Client:	Project:
Mr & Mrs T Barratt	New Dwelling at Kinfauns
Drawing:	
Sketch Perspective	

Rev	Date	Description	By	Chk

All dimensions and setting out must be checked on site. Use written in preference to scaled dimensions. If in doubt ask.

PERTH AND KINROSS COUNCIL

ERECTION OF A DWELLING HOUSE (IN PRINCIPLE) LAND 250 METRES
SOUTH WEST OF 3 OLD SCHOOL, CHURCH ROAD, KINFAUNS

DELEGATED REPORT OF HANDLING

Ref No	13/00585/IPL	Case Officer	Team Leader	Decision to be Issued?	
Ward	N1 – Carse	<i>RSLBS</i>	<i>14/5/13 AC</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Target	20 May 2013				
RECOMMENDATION Refuse the planning application on the grounds that the proposal is contrary to the Development Plan, the 2012 Housing in the Countryside Guide and the proposed Local Development Plan 2012.					

BACKGROUND & DESCRIPTION

The application site relates to a regular shaped site at Kinfauns which was formerly part of the construction site associated with the A90 Kinfauns flyover project. The 0.015 ha site is approx 32m in its width (east to west) and approx 66m in its length (north to south) and sits in a dip in the landscape north of the flyover and south of Church Road - a run of residential properties that sit proud on higher ground. Immediately to the west of the site is a mature tree belt, with the other boundaries defined by a combination of post and wire fencing and planted hedgerows. Vehicular access to the site is via an existing tarmac entrance which leads into the adjoining field.

The site lies within an Area of Great Landscape Value (AGLV) as defined in the adopted Local Plan, and within the Green Belt as defined in the proposed Local Development Plan 2012.

This planning application seeks to obtain a planning in principle consent for the erection of a single dwelling. A new vehicular access from the existing tarmac entrance will be formed. An indicative house type showing a traditional dwelling, with accommodation over two levels (with the upper level within the roofspace) has been submitted by the applicant.

A similar proposal (12/00667/IPL) was refused by the Planning Service last year under delegated powers and a subsequent review to the Councils Local Review Body dismissed.

APPRAISAL

Sections 25 and 37(2) of the TCP (S) Act 1997 (as amended by the 2006 act) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. The Development Plan for the area comprises the recently approved Tay Plan 2012, and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).

In terms of the Tay Plan, although there are general policies of broad relevance contained in the plan, the key policy of note is *Policy 3 (Managing Tay Plans assets)*. This policy states that a Green Belt will be designated around Perth. Although the exact boundaries of the Green Belt will not be finalised until the proposed Local Development Plan is finalised, it is accepted that the area around Kinfauns will be included in the final designation.

Within the Local Plan, the site lies within the landward area and within an area designated as being one of great landscape value where *Policies 1, 12 and 32* are directly applicable. *Policy 1* relates to all new developments within the landward area and seeks (amongst other things) to ensure that all new sites are compatible with existing land uses and that all new sites have a suitable landscape framework which is capable of absorbing the development which is proposed, whilst *Policy 32* refers to new Housing in the Countryside. *Policy 12* of the Local Plan, states that there will be a presumption against new development within the AGLV, unless there is a proven operational need.

In terms of other material considerations, National Planning Guidance, the Councils other approved policies (namely the Developer Contributions 2012 and HITCG (2012)) and the contents of the proposed LDP are all material considerations. The Developer Contributions document outlines instances when the council will seek financial contributions for new developments, and one of those instances is circumstances when new housing is proposed within the catchment of a primary school which is operating at over 80% capacity.

The HITCG 2012 is the most recent expression of Council policy towards new housing in the open countryside, and offers support for new housing providing certain criteria can be met and achieved.

Lastly, the approved proposed LDP is an expression of Council policies and proposals up to 2024. Within the proposed LDP, an area of Green Belt has been identified and it is likely that the area around Kinfauns (which this site is located within) will remain within the Green Belt designation. The proposed LDP explicitly states that the HITCPs will not apply within the Green Belt (*Policy NE5*). The examination into the unresolved representations on the LDP commenced on the 25 March 2013 and there are no unresolved representations which relate specifically to this site or the boundary of the Green Belt in this area. However there are a number of unresolved representations which relate to the Green Belt policy and in particular to the application of the housing in the countryside policy within the Green Belt. The Council did not approve any modifications to the Green Belt policy framework in its schedule 4 response (approved 23 Jan 2013) which has been submitted to ministers.

Based on the above, I ultimately consider the key test(s) of the acceptability of this planning application to be:-

- a) whether or not the site is compatible with its surrounding land uses
- b) whether or not the site has a good existing landscape framework
- c) whether or not the proposal will adversely affect the landscape character of the approved AGLV and;
- d) whether or not the proposal is acceptable in land use terms

I shall address these issues in turn.

In terms of compatibility with existing land uses, the principal neighbouring land use of note is the busy A90 which is approx 100m from the site in a due south direction. There is no question in my mind that traffic noise arising from the A90 will result in an amenity issue for future occupiers, particularly during the night and I note that my colleagues in Environmental Health have raised concerns based on the (lack of) information which has been submitted with the planning application. However, I am somewhat reluctant to ask the applicant for a full NIA at this stage (based on the ultimate recommendation of refusal), so to this end, in the event that a review of this decision to the LRB were to be successful, I strongly recommend that an appropriately worded condition is attached to any consent which requires the submission of a full NIA as part of any detailed planning application. The NIA must include mitigation measures for noise from the A90, which may require bunding or re-contouring of the land between the site and the road.

In terms of the existing landscape framework, I accept that the site does have a definitive boundary along its western side via mature existing trees, however the remaining boundaries are all relatively new and comprise fencing and hedgerows - which I do not necessarily consider to constitute a good landscape framework. I appreciate that the applicants have undertaken excessive tree planting over the last few years to try and reform the landscape after the construction works associated with the flyover were completed (and are proposing further planting), however at the present time I do not consider the landscape characteristics of this site to be sufficient to merit it being classed as an acceptable site for a new house in the open countryside. I therefore consider the proposal to be inconsistent with *Policy 1* of the Local Plan.

In terms of the impact on the landscape character of the area, and the impact on the AGLV, as stated previously the Local Plan (through Policy 12) states that there is a presumption against new development within the AGLV, unless the development proposed is directly linked to operational need. However, prior to the advancement of the LDP and the Green Belt, the Council had taken a more liberal approach to this specific policy in this area in the past, with each proposal considered on its own individual merits, largely based on whether or not the proposal would have an adverse landscape impact.

Looking at the AGLV and Policy 12 in isolation from the content of the proposed LDP, in this case, the site in my view is clearly divorced from any existing building group and although the site sits in a hollow dip, a dwelling in this location will be visible from passing roads. However, its visibility will be somewhat limited, largely due to the fact that the site would not be in the natural sightlines of the passing roads. To this end, I am not convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV. However, I note that after considering the previous planning application at the LRB, the members of the LRB took the majority decision that the proposal would have a impact on the AGLV. As that decision is a material consideration, I consider it reasonable to adopt the position which was taken at the LRB and to this end; I also consider the proposal to be contrary to Policy 12 of the Local Plan.

Turning to the issue of the acceptability of the land use (for residential), as the site falls within the landward area of the PALP, the proposal falls to be assessed against the Housing in the Countryside Policies (HITCP) as contained firstly within the Local Plan (Policy 32), and secondly, the revised HITCG of 2012 - which effectively supercedes the Local Plan version of the HITCP.

The applicants have made the application based on their view that the proposal accords with the aims of 2012 HITCG, namely category 3.4 which relates to houses for local people and that the issues relating to the sites physical characteristics and its location within the AGLV / proposed Green Belt are superseded by their need for a new dwelling. Category 3.4 of the HITCG offers some scope for new housing when the new house is a house required for a local applicant who has lived and/or worked in the area for at least 3 years, and is currently *inadequately* housed.

The applicants presently own a dwelling on Church Road, however the applicants consider this property not to be suitable for their family and without being able to readily extend their property, a new build on land within their control is considered by them to be the only scope for larger accommodation as their personal circumstances does not allow them to buy a larger property.

Available on *PublicAccess* is an Appendix Note from the Planning & Sustainable Development Manager which offers some supplementary guidance on what constitutes being *inadequately* housed - as there is currently no accepted or agreed definition of this phrase either in the HITCG 2012, the Local Development Plan or national guidance.

The Council's Common Allocations Policy (2010) seeks to define and grade current housing need. This document specifically deals with the social rented sector, so it is challenging to apply it to a situation where the adequacy of private, owner-occupied housing is in question. According to this policy, many households may get some 'points' but perhaps not enough which would mean that they are re-housed by the Council in a reasonable length of time. For example if a family are short of a bedroom (which appears to the applicants case) but every other aspect of the house is suitable (ie a permanent home which is of a good physical condition) they would get some points but are unlikely to be re-housed within a reasonable timescale, if ever.

Whilst the applicants are perhaps living in '*unsuitable*' accommodation, their accommodation would probably not be considered as being '*unsatisfactory*'. In addition, with the exception of indicating that they are a one wage family, no financial justification has been brought forward to demonstrate that they are priced out of the open market, based on their salary, savings, value of current property (and assets) and inability to secure grants or assistance in making the 'jump' from their existing home to a larger one.

The position that the applicants find themselves is extremely unfortunate and problematic, but it is nevertheless the same position a number of households (some of which are not homeowners) find themselves in across not only the county but the country. I therefore do not consider this proposal to accord with section 3.4 of the HITCG 2012.

In addition for housing for local people, HITCG 2012 also offers some scope for the re-development of Brownfield Land, where the proposal would remove dereliction and result in a significant environmental improvement, and the applicant has indicated that they consider this site to meet with this category of development. Although the site by definition, could perhaps be argued to be Brownfield due to its involvement in the flyover construction, it is nevertheless now 'Greenfield' with no obvious visual remains of the former engineering works on the site and no visual evidence of any dereliction. I therefore find it difficult to offer any support for the proposal under this section of the 2012 guide either.

→ fails to mention fully the comment of the Policy Officer
- see attached

I therefore consider the proposal to be contrary to the Housing in the Countryside Policies, as contained in the Local Plan and the revised 2012 version.

However, in terms of land use, the contents of the proposed LDP is also a material consideration. The Council has approved its proposed Local Development Plan 2012, and this document is accepted to be a significant material consideration in the determination of planning applications. Within the proposed LDP, the site lies within the landward area and within an area which has been designated as a Green Belt.

Policy NE3 of the LDP explicitly states that the Housing in the Countryside Policies does not apply within the Green Belt and that any development must be limited to agriculture, horticulture or forestry operations. The Green Belt and its policy framework is material different to other LDP policies in that it is underpinned by the approved Tay Plan 2012, which effectively means that Perth and Kinross will have to have a Green Belt in the general area of Kinfauns if the LDP is to be consistent with Tay Plan as is required by the Planning Act.

To this end, I consider the Councils requirement for the identification of the area as a Green Belt to increase the restrictions on new development in this area, particular as the settled view of the Council, as expressed in the proposed LDP is that the HITCG 2012 should be not applicable within the Green Belt. To this end, I therefore consider the proposal to be contrary to the proposed LDP.

In terms of other material contributions, this includes consideration of the Developer Contributions document and consideration of bio-diversity issues. In terms of the Education Contributions, as the proposal is for planning consent in principle, in the event that a review to the LRB were to be successful, an appropriately worded condition should be attached to the consent seeking compliance with the requirements of the Development Contributions document.

Lastly, in terms of bio-diversity although I have no knowledge of any protected species being present within the site, it is likely that some local wildlife maybe present within the site. However, I consider this matter to be fully addressable at a detailed application stage with the submission of a habitat / species survey.

In conclusion, whilst I appreciate that the proposal has gained support from the local community and the personal circumstances of the applicant is difficult in their existing home; I do not consider there to be sufficient justification for a departure from approved Council policy. To this end, I (again) recommend the planning application for a refusal.

NATIONAL PLANNING GUIDANCE / POLICIES

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.

The 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.

Of relevance to this application is paragraphs 92-97 which relates to rural development

Planning Advice Note 73 – Housing in the Countryside

Designing Places, published in November 2001, sets out the then Scottish Executive's expectations of the planning system to deliver high standards of design in development for rural and urban areas. The design based Planning Advice Note (PAN) series is an additional means by which we can maintain the profile of design and identify best practice in planning for high quality development. This PAN supersedes and reinforces many of the key themes set out in *PAN 36 Siting and Design of New Housing in the Countryside* (published in 1991) and brings the advice up to date with the new emphasis on design and quality. The advice in this PAN sets out key design principles which need to be taken into account: by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.

DEVELOPMENT PLAN

The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000). Within the Tay Plan there are no specific policies of specific relevance relevant to this proposal.

Within the Local Plan, the site lies within the landward area, where the following policies are directly relevant.

Policies 1(General Development) states that all developments within the Plan area will be judged against the following criteria (amongst others)

- The site should have a landscape framework capable of absorbing, and if necessary, screening the development, and where appropriate opportunities for landscape enhancement will be sought.
- The development should be compatible with it's surroundings in land use terms and should not result in a significant loss of amenity to the local community.

Policy 12 (AGLV) states that there will be a presumption against built development within the AGLV, except for operational need.

Policy 32 (Housing in the Countryside Policy) is the local plan version of the Council

in the Housing in the Countryside Policy which offers support for new housing providing that certain criteria can be met.

OTHER COUNCIL POLICIES

Proposed LDP 2012

The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. Currently undergoing a period of representation, the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application.

Within the proposal LDP, the site lies within the landward area within an area identified as a Green Belt, where Policy NE5 is directly applicable. This policy explicitly states that the HITCP does not apply in this area.

Housing in the Countryside Guide 2012

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 & Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories. It should be noted that the proposed LDP 2012, which is at an advanced stage but yet to be finalised, states that this policy will not be applied within the area designated as Green Belt.

Developer Contributions 2012

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. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

SITE HISTORY

A similar proposal was refused planning consent last year (12/00667/IPL) after consideration by the Council's Local Review Body.

PKC CONSULTATIONS

Transport Planning have commented on the planning application and have raised no concerns.

ECS has commented on the planning application and confirmed that the local primary school is operating presently operating at over its 80% capacity.

Environmental Health Manager has commented on the proposal and indicated that a NIA is required to ensure that noise from the nearby A90 can be suitably mitigated.

EXTERNAL CONSULTATIONS

Scottish Water have been consulted on the planning application and raised no comment.

REPRESENTATIONS RECEIVED

One letter of support has been received from a neighbouring local resident.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required.
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	None

PUBLICITY UNDERTAKEN

The application was advertised in the local press on the 29 March 2013.

LEGAL AGREEMENTS REQUIRED

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDED REASONS FOR REFUSAL

- 1 As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites have a suitable landscape framework.
- 2 As the site is located within the AGLV, and is for a proposal which is not necessary for operational need, the proposal is contrary to the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), Policy 12 which states that there will be a presumption against built development within

the AGLV except for operational need.

- 3 As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
- 4 As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Housing in the Countryside Guide (2012) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.
- 5 As the proposal relates to a development which is not essential for agriculture, horticulture or forestry operations, the proposal is contrary to Policy NE5 (Green Belt) of the proposed Local Development Plan 2012 were it is explicitly states that the Housing in the Countryside Policy does not apply.

JUSTIFICATION

The proposal is not in accordance with the Development Plan or the approved, proposed Local Development Plan 2012 and there are no material reasons which justify approval of the application.

INFORMATIVES

None

PROCEDURAL NOTES

None

REFUSED PLANS

13/00585/1
13/00585/2
13/00585/3

PERTH AND KINROSS COUNCIL

ERECTION OF A DWELLING HOUSE (IN PRINCIPLE) LAND 250 METRES SOUTH WEST OF 3 OLD SCHOOL, CHURCH ROAD, KINFAUNS

DELEGATED REPORT OF HANDLING

Ref No	12/00667/IPL	Case Officer	Team Leader	Decision to be Issued?	
Ward	N1 – Carse			Yes	No
Target	30 July 2012				
RECOMMENDATION					
Refuse the planning application on the grounds that the proposal is contrary to both the Development Plan and the 2009 HITCP.					

BACKGROUND & DESCRIPTION

The application site relates to a regular shaped site at Kinfauns which was formerly part of the construction site associated with the A90 Kinfauns flyover project. The 0.015 ha site is approx 32m in its width (east to west) and approx 66m in its length (north to south) and sits in a dip in the landscape north of the flyover and south of Church Road, a run of residential properties. Immediately to the west of the site is a mature tree belt, with the other boundaries defined by a combination of post and wire fencing and planted hedgerows. Vehicular access to the site is via an existing tarmac entrance which leads into the adjoining field.

The site lies within an Area of Great Landscape Value as defined in the adopted Local Plan, and within the Green Belt as defined in the proposed Local Development Plan 2012.

This planning application seeks to obtain a planning in principle consent for the erection of a single dwelling. A new vehicular access from the existing tarmac entrance will be formed.

APPRAISAL

Sections 25 and 37(2) of the TCP (S) Act 1997 (as amended by the 2006 act) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. The Development Plan for the area comprises the recently approved Tay Plan 2012, and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).

In terms of the Development Plan, although there are general policies of relevance contained in the Tay Plan, the principal policies of specific relevance to this proposal are contained in the Local Plan. Within the Local Plan, the site lies within the landward area of the Plan where Policies 1 and 32 are directly applicable. Policy 32 refers to new Housing in the Countryside, whilst Policy 1 relates to all new developments within the landward area and seeks (amongst other things) to ensure that all new sites are compatible with existing land uses and that all new sites have a

suitable landscape framework which is capable of absorbing the development which is proposed. In addition to this, Policy 12 of the Local Plan, states that there will be a presumption against new development within the AGLV, unless there is a proven operational need.

In terms of other material considerations, National Planning Guidance, the Councils other approved policies on Primary Education and HITCP (2009) and contents of the proposed LDP are all material considerations.

Based on the above, I ultimately consider the key test(s) of the acceptability of this planning application to be:-

- a) whether or not the site has a good existing landscape framework
- b) whether or not the site is compatible with its surrounding land uses
(collectively an assessment against Policy 1 of the PALP) and
- c) whether or not the proposal will adversely affect the landscape character of the AGLV and;
- d) whether or not the proposal is acceptable in land use terms (*i.e. compliance with the HITCP's*).

I shall address these issues in turn.

In terms of compatibility with existing land uses, the principal neighbouring land uses of note is the busy A90 which is approx 100m from the site in a due south direction. There is no question in my mind that traffic noise from the A90 will result in an amenity issue for future occupiers, particularly during the night and I note that my colleagues in Environmental Health have raised concerns based on the information which has been submitted. However, I am reluctant to ask the applicant for a full NIA at this stage (based on the ultimate recommendation), so to this end, in the event that the inevitable appeal to the LRB were to be successful, I strongly recommend that an appropriately worded condition is attached to any consent which requires the submission of a full NIA as part of any detailed planning application. The NIA must include mitigation measures for noise from the A90, which may require bunding or re-contouring of the land between the site and the road.

In terms of the existing landscape framework, I accept that the site does have a definitive boundary along its western side via mature existing trees, however the remaining boundaries are all relatively new and comprise fencing and hedgerows - which I do not necessary consider to constitute a good landscape framework. I appreciate that the applicants have undertaken excessive tree planting over the last few years to try and reform the landscape after the construction works were completed at the flyover, however at the present time I do not consider the landscape characteristics of this site to be sufficient to merit it being classed as an acceptable housing site.

In terms of the impact on the landscape character of the area, and the impact on the AGLV, as stated previously the Local Plan (through Policy 12) states that there is a presumption against new development within the AGLV, unless the development proposed is directly linked to operational need. However, the Council has taken a more liberal approach to this specific policy in this area in the past, with each proposal considered on its own individual merits, largely based on whether or not the proposal would have an adverse landscape impact. In this case, the site is clearly divorced from any existing building group and although the site sits in a hollow dip, a

This section misrepresented in previous appeal



dwelling in this location will be visible from passing roads. However, its visibility will be somewhat limited, largely due to the fact that the site would not be in the natural sightlines of the passing roads. To this end, I am not convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV.

Turning to the key issue of the acceptability of the land use (for residential), as the site falls within the landward area of the PALP, the proposal falls to be assessed against the Housing in the Countryside Policies (HITCP) as contained firstly within the Local Plan (Policy 32), and secondly, the revised HITCP of 2009. The applicants have made the application based on their view that the proposal accords with the 2009 HITCP, namely category 3.4 which relates to houses for local people. This category offers some scope for new housing when the new house is house required for a local applicant who has lived and/or worked in the area for at least 3 years, and is currently *inadequately* housed.

The applicants presently owns a dwelling along Church Road, however this property is now not large enough for their family and without being able to readily extend their property, a new build on land which they own is considered by them to be the only scope for larger accommodation as their personal circumstances does not allow them to buy a larger property. Although I have some sympathy with the applicant's position, I do not consider the underlining aims of this section of the policy to allow for existing home owners to build a new house on sites which would ordinary not comply with the HITCP. The aim of this section of the HITCP is, in my opinion more aligned towards offering some scope for first time permanent accommodation to be provided (in a suitable location) to someone who is perhaps long term renting or living permanently in temporary accommodation i.e. a static caravan, whilst still working and living in the local area – and looking to remain in the area for the long term. The position that the applicants find themselves in is both unfortunate and problematic, but it is nevertheless the same position a number of households find themselves in across not only the county but the country, with the only exception being that the applicants in this case have an area of land within their ownership which they wish to relocate too as a solution to their housing problem. I therefore do not consider this proposal to accord with this section of the HITCP.

Lastly, the 2009 also HITCP offers some scope for the re-development of Brownfield Land, where the proposal would remove dereliction and result in a significant environmental improvement. Although the site by definition, could perhaps be argued to be Brownfield due to its involvement in the flyover construction, it is nevertheless now a Greenfield with no obvious visual remains of the former engineering works on the site and no visual evidence of any dereliction. I therefore find it difficult to offer any support for the proposal under this section of the 2009 Policy either.

In terms of other material contributions, this includes consideration of the PGN on Education, consideration of the LDP and consideration of bio-diversity issues. In terms of the PGN on Education, as the proposal is for planning consent in principle, in the event that an appeal to the LRB were to be successful, an appropriately worded condition should be attached to the consent seeking compliance with the PGN.

Within the proposed LDP, the site lies within the landward area and within the area which has been designated as a Green Belt. Policy NE3 of the LDP states that the Housing in the Countryside Policies do not apply within the Green Belt and that any development must be limited to agriculture, horticulture or forestry operations. I consider the identification of the area as a Green Belt to increase the restrictions on

development (from that of the AGLV designation in the Local Plan) in this area, and although I am not convinced that the proposal would have an impact on the landscape character of the area, the proposal is nevertheless contrary to the LDP and there is little justification to support a departure from this i.e. no compliance with other relevant policies.

Lastly, in terms of bio-diversity although I have no knowledge of any protected species being present within the site, it is likely that some local wildlife maybe present within the site. However, I consider this matter to be fully addressable at a detailed application stage with the submission of a habitat / species survey.

I appreciate that the development has gained support from the local community; however I do not consider this to be sufficient to justify a departure from approved Council policy. To this end, I recommend the planning application for a refusal.

NATIONAL PLANNING GUIDANCE / POLICIES

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.

The 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.

Of relevance to this application is paragraphs 92-97 which relates to rural development

Planning Advice Note 73 – Housing in the Countryside

Designing Places, published in November 2001, sets out the then Scottish Executive's expectations of the planning system to deliver high standards of design in development for rural and urban areas. The design based Planning Advice Note (PAN) series is an additional means by which we can maintain the profile of design and identify best practice in planning for high quality development. This PAN supersedes and reinforces many of the key themes set out in *PAN 36 Siting and Design of New Housing in the Countryside* (published in 1991) and brings the advice up to date with the new emphasis on design and quality. The advice in this PAN sets out key design principles which need to be taken into account: by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen

as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.

DEVELOPMENT PLAN

The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000). Within the Tay Plan there are no specific policies of specific relevance relevant to this proposal.

Within the Local Plan, the site lies within the landward area, where the following policies are directly relevant.

Policies 1(General Development) states that all developments within the Plan area will be judged against the following criteria (amongst others)

- The site should have a landscape framework capable of absorbing, and if necessary, screening the development, and where appropriate opportunities for landscape enhancement will be sought.
- The development should be compatible with it's surroundings in land use terms and should not result in a significant loss of amenity to the local community.

Policy 12 (AGLV) states that there will be a presumption against built development within the AGLV, except for operational need.

Policy 32 (Housing in the Countryside Policy) is the local plan version of the Council in the Housing in the Countryside Policy which offers support for new housing providing that certain criteria can be met.

OTHER COUNCIL POLICIES

Proposed LDP 2012

The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. Currently undergoing a period of representation, the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application.

Within the proposal LDP, the site lies within the landward area within an area identified as a Green Belt, where Policy NE5 is directly applicable. This policy explicitly states that the HITCP does not apply in this area.

Housing in the Countryside Policy 2009

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 & Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that

most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories.

Planning Guidance Note – Developer Contributions May 2009

Across Scotland local authorities are having difficulty maintaining and developing infrastructure in order to keep up with the pressures of new development. Additional funding sources beyond that of the local authority are required to ensure that infrastructure constraints do not inhibit sustainable economic growth.

Planning Guidance Note–Primary Education & New Housing Development May 2009

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. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

SITE HISTORY

None relevant to this proposal.

PKC CONSULTATIONS

Transport Planning have commented on the planning application and have raised no concerns.

ECS has commented on the planning application and confirmed that the local primary school is operating presently operating at over its 80% capacity.

Environmental Health Manager has commented on the proposal and indicated that a NIA is required to ensure that noise from the nearby A90 can be suitably mitigated.

EXTERNAL CONSULTATIONS

Scottish Water have been consulted on the planning application and raised no comment.

REPRESENTATIONS RECEIVED

Six letters of representations have been received from individuals, all supporting the proposal.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required.
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	None

PUBLICITY UNDERTAKEN

The application was advertised in the local press on the 8 June 2012.

LEGAL AGREEMENTS REQUIRED

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDED REASONS FOR REFUSAL

- 1 As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites are large enough to accommodate the development proposed.
- 2 As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
- 3 As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.

JUSTIFICATION

The proposal is not in accordance with the Development Plan and there are no material reasons which justify approval of the application.

INFORMATIVES

None

PROCEDURAL NOTES

None

REFUSED PLANS

12/00667/1 – 12/00667/2

Note

No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report, although six letters of representation have been received.

Perth and Kinross Council

Local Review Body

Statement of Case



On behalf of Mr and Mrs T Barratt

Planning Application 13/00585/IPL – Erection of dwellinghouse on land 250 metres south west of 3 The Old School, Church Road, Kinfauns

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Appendices

Appendix A	-	Copy of Previous Planning Statement
Appendix B	-	Recent PKC AGLV Approvals

1 Introduction

- 1.1 This Review Statement is submitted on behalf of Mr and Mrs Barratt, 3 The Old School, Church Road, Kinfauns (The Appellants). The Statement is submitted in support of the appellants' request for a Review of the Refusal of Planning Application 13/00585/IPL (the planning application) for the erection of a dwelling house and formation of vehicle access (in principle) on land 250m south west of 3 The Old School, Church Road, Kinfauns.
- 1.2 The history to the case is that an earlier application ref 12/00667/IPL (the previous application) was refused under delegated powers. The subsequent review (the previous appeal) was then dismissed, although critically there was an error in the Planning Advisor's summary of the Report of Handling's assessment of the proposal's wider landscape impact.
- 1.3 The planning application was refused on 14 May 2013 for the following reasons:-
- 1) As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites have a suitable landscape framework.
 - 2) As the site is located within the AGLV, and is for a proposal which is not necessary for operational need, the proposal is contrary to the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), Policy 12 which states that there will be a presumption against built development within the AGLV except for operational need.
 - 3) As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
 - 4) As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Housing in the Countryside Guide (2012) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.
 - 5) As the proposal relates to a development which is not essential for agriculture, horticulture or forestry operations, the proposal is contrary to Policy NE5 (Green Belt) of the proposed Local

Development Plan 2012 were it is explicitly states that the Housing in the Countryside Policy does not apply.

- 1.4 In accordance with S25 and S37(2) of the Town and Country Planning Act 1997, as amended, this Review must be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 1.5 In this case the Development Plan comprises the Perth Area Local Plan 1995, incorporating alteration No 1 Housing Land 2000 and TAYplan. The Proposed Perth and Kinross Local Development Plan is currently subject to Examination in Public. There are outstanding objections to the application of Housing in the Countryside Policy within the Green Belt, which severely limits the weight that can be afforded to the Proposed LDP.
- 1.6 This Statement will address the reasons for refusal in turn referring to Development Plan Policy and other material considerations

2 Existing Landscape Framework

- 2.1 Policy 1 of the Adopted Local Plan is a general policy applicable to land out with the settlement boundaries and where there are no site specific allocations on policies/proposals. The only issue raised in the Report of Handling and decision notice refers to part of Policy 1 which states:

"The site should have a good landscape framework within which the development can be set and, if necessary, screened completely".
- 2.2 There is no definition in Policy 1 as to what a "good landscape framework" is expected to constitute. It does not require that the site boundaries are clearly defined by existing landscaping. In such circumstance other material guidance, including Scottish Planning Policy and advice must be considered in addition to Perth and Kinross Council's own supplementary guidance.
- 2.3 The site is located on the western boundary of restored land. Previously, the land was used as a site compound whilst Kinfauns Flyover was being constructed. The appellants have undertaken significant work and expense to greatly improve the appearance of the site, followings its inadequate restoration. Indeed, the appellants took and implemented advice from Perth and Kinross Council as how to reinstate the land. In assessing the previous application the Report of Handling conceded that the site had the basis of a good landscape framework.

- 2.4 The current Report of Handling notes that the site has a "definitive boundary along its western side via mature existing trees". It goes on to acknowledge landscaping carried out during restoration and further planting proposed and state that the other boundaries "are relatively new" and "at the present time I do not consider the landscape characteristics of the site to be sufficient to merit it being cleared as an acceptable site for a new house".
- 2.5 The turn of phrase "at the present time" is interesting. In acknowledging that landscaping works have been carried out, which will mature in due course, it must follow that in due course the landscape framework will mature and provide an even better landscape setting.
- 2.6 Further, the Report of Handling does not mention the topography of the local landform. The land rises up to the north of the site towards the existing houses at Kinfauns. The land also rises to the west. This provides a significant backdrop.
- 2.7 In terms of siting, best practice advice set out in PAN72 states that existing and new tree planting are encouraged as examples of good landscape framework. Furthermore PAN72 also notes that landform can be used to 'nestle' a site into the landscape. The submitted drawings illustrate the proposed site framework indicatively and how it would fit into the landscape.
- 2.8 The Council's own guidance advises to "use existing topography or trees to provide a landscape setting for the house. This reduces scale and visual impact and makes the entire development immediately look established. Trees can provide shelter, a sense of place or enclosure, and a ready made garden".
- 2.9 As described above the application site follows this advice to the word by locating the house in a hollow dip with rising landform to the rear and mature trees to the rear also. The Report of Handling acknowledges that the site lies within a "hollow dip".
- 2.10 It is therefore submitted that as a result of established tree planting to the west, rising land to the north and west and the maturing tree and hedge planting to the south and east provide a good landscape framework for a house that complies fully with best practice advice issued by the Scottish Government and Perth and Kinross Council.

3 Location within AGLV

- 3.1 The second reason for refusal states that the proposal is contrary to Policy 12 of the Adopted Plan which presumes against built development within the AGLV.

- 3.2 It is accepted that the proposal is not advanced on the basis of operational need for agricultural/forestry/horticulture. However, as noted on the Report of Handling the Council has recently taken a more "liberal stance on proposals within the AGLV, largely based on whether or not the proposal would have an adverse landscape impact".
- 3.3 It is quite clear that the Report of Handling the assessment states that the visibility of the site would be "somewhat limited" and to that end the Officer is "**NOT** convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV." The third reason for refusal does not appear to reflect the Report of Handling's assessment of impact on the AGLV.
- 3.4 Crucially this statement was misinterpreted at the previous Review where the Planning Advisor stated that the assessment in the Report of Handling said "was not convinced that the proposal would **not** have an adverse impact on the landscape character of the AGLV". I emphasise the second use of the word not. This was added by the Advisor and did not reflect the Report of Handling (please see extract below).

"In this case, the site is clearly divorced from any existing building group and although the site sits in a hollow dip, a dwelling in this location will be visible from passing roads. However, its visibility will be somewhat limited, largely due to the fact that the site would not be in the natural sightlines of the passing roads. ***To this end, I am not convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV.***"

- 3.5 This misinterpretation of the Report of Handling in turn led to the impact on the AGLV being introduced as an additional reason for refusal, which was not on the original decision notice.
- 3.6 It is clear from the plethora of recent planning approvals (see appendix B) that the determining factor in assessing Policy 12 is the landscape impact of the development.
- 3.7 The application site:-
- Has significant backdrop by way of mature trees to the west.
 - Has a significant backdrop by way of using landform to the north and west.
 - Sits in a "hollow dip" in the landscape.
 - Has only "limited visibility" from surrounding roads.
 - Benefits from existing landscaping carried out that will soon mature.

- 3.8 Accordingly it is considered that the proposed development would have a minimal impact on the landscape setting of Perth, and therefore would not affect the purpose or integrity of the AGLV designation. Therefore in order to be consistent with recent planning appeals, that have been made at Delegated, Local Review and DPEA level, the proposal does not conflict with Policy 12.

4 Policy 32 and the Housing in the Countryside Policy Guide 2012.

- 4.1 The first two reasons for refusal addressed the matter of site landscaping and wider landscape framework. Reasons three and four deal with the matter of the principle of development.
- 4.2 Policy 32 of the Adopted Local Plan dates from 1995. It has been superseded several times since by Scottish Planning Policy Guidance, and the Council's own statements of Planning Policy Guidance, particularly those issued in 2005, 2009 and this latest version from November 2012. As noted in the Report of Handling, the revised PKC HITCG 2012 "effectively supersedes the Local Plan version of the HITCP".
- 4.3 Accordingly, as Policy 32 has been superseded it does not form a material basis to justify refusal of this application.
- 4.4 The principal basis for the assessment of the appellant's case is Category 3.4 at the HITCG 2012. Category 3.4 states that Favourable consideration will be given to proposals for the construction of new houses in the open countryside where they fall into at least one of the following categories:
- 3.4 "A house is required for a local applicant who has lived and/or worked in the area for at least three years, and is currently inadequately housed. Proof of residency and/or work status may be required".
- 4.5 The policy tests therefore are:
- The applicant is local
 - The applicant has also lived/worked in the area for at least three years
 - The applicant is currently inadequately housed.
- 4.6 The appellants have lived at 3 The Old School for more than 10 years. Mr Barratt has worked locally in the forestry industry, currently employed as a forester based in Perth. Mrs Barratt does not work and looks after their two children. Clearly the appellants meet the first two Policy tests.

- 4.7 Sections 6.16 to 6.28 of the supporting planning statement highlight the reasons why the applicant is currently inadequately housed. That statement is appended in support of the appeal (see appendix A) and therefore these reasons will not be repeated in detail here.
- 4.8 In summary the applicant does not own the land immediately surrounding their Category B listed house, and have no legal ability to extend it. If they did have the legal ability to extend the house, the nature of the listed building would make it physically very difficult. They have a boy aged 3 and a girl aged 6 and only one bedroom to accommodate them. Furthermore, their daughter has Rolandic Epilepsy. Perth and Kinross Council's Housing Service confirms that the present arrangement is inadequate as does the advice provided by Susannah Knowles of the Planning and Regeneration Policy team in her consultation response. Although the Barratt's have not applied for a Rural Home Ownership Grant, it appears that they would meet the criteria for one.
- 4.9 The Report of Handling refers to the Council's Common Allocations Policy in justifying the assessment of the proposal. There is no Policy basis using the Common Allocations Policy set out in the HITCG 2012. Generally the Common Allocation Policy is a Council Housing matter and would have no place as a material planning consideration. In fact the only factor that the HITCG seemingly refers to is eligibility for a Rural Home Ownership Grant. The Report of Handling does not make any reference to those criteria.
- 4.10 In assessing the application against Policy 3.4 the Report of Handling largely ignores the advice provided by Susannah Knowles of the Perth & Kinross Policy Team which concluded *"If we strictly apply the policy and guidance as written, it would seem that if the applicant can demonstrate he is "local" and currently "inadequately housed", then a new house in the open countryside would be supported by the council. I would however like to think that all reasonable alternatives had been investigated (e.g. existing properties within an agreed distance or even extension of his current home). A reference to how the applicant can meet the open market is another avenue to be investigated as well."*
- 4.11 The Planning Officer has previously accepted the applicant is both local, has worked in the area for more than three years and based on Perth & Kinross Council's Common Housing Allocations Policy (April 2010) is inadequately housed therefore, based on Policy 3.4 - Housing for Local People, the applicant has demonstrated that he is both *"local"* and *"inadequately housed"* and as such a new house in the open countryside should be supported by the Council as these are the only formally approved criteria.

- 4.12 The Report of Handling also fails to adequately address the "range of physical and social needs" highlighted in the supplementary guidance provided to the Planning Officer. The appellant's children, Adam (3) and Sophie (6) share a single bedroom, the oldest suffers from Epilepsy, the specific form of the disease is characterised by seizures in the evenings and early morning. Sharing a single bedroom not only fails to meet the physical needs of the family but also their social needs, as regular disturbed nights results in both parents and both children being woken, often multiple times. Local precedents for the assessment and interpretation of the Housing in the Countryside Policy to reflect social needs can be seen in the approval of a three bedroom house on a greenfield site at Eastwood at Kinfauns Castle to provide additional accommodation for a carer (11/01986); the appellants simply seek this same reasonable approach.
- 4.13 With regards the potential criteria suggested for consideration of Policy 3.4 in the supplementary guidance to the Planning Officer, this information was not shared with applicant or their agent despite regular approaches to the Planning Officer to discuss these matters, as such it is not appropriate to assess the application against evolving and undisclosed policy criteria. Notwithstanding this, most the recommended information had been supplied in the original application, including confirmation that it was not possible to extend the appellant's existing home.
- 4.14 In relation to the open market conditions and the appellant's economic ability to remain in the community, very few properties have come to market in the area over the past three years reflecting the challenge of finding suitable housing, however on the basis of comparable market evidence taken from the Registers of Scotland and the current Perthshire Property Guide the following list of local properties sold on the open market or currently for sale have been identified:
- Croftvale, Kinfauns - 4 bedroom, semi-detached cottage - Currently on market for O/O £480,000
 - Over Kinfauns Cottage - 2 bedroom, detached cottage in need of complete renovation - Currently on market for O/O £245,000
 - Kinfauns House, Kinfauns - 5 bedroom, detached house - Sold June 2013 undisclosed figure over £850,000
 - West Lodge, Seggieden - 2 bedroom, detached cottage in need of complete renovation - Sold May 2011 £195,000
 - Over Kinfauns Cottage, Kinfauns - 2 bedroom, detached cottage in need of complete renovation - Sold August 2011 £240,000
 - Goukton Farm Cottage, Balthayock - 3 bedroom, semi-detached cottage - Sold August 2011 £220,000

- 4.15 Using the RBS mortgage calculator, based on the household's single income, the appellants would currently qualify for a mortgage of just under £108,000 which combined with existing equity of approximately £50,000 would provide a working capital of £158,000 for a local house purchase, which demonstrates that even purchasing a two bedroom house (in need of complete renovation) is still a minimum of £87,000 over their maximum price range but the modest new build proposed would be possible.

5 Proposed Green Belt Policy

- 5.1 The Report of Handling states that the key tests of acceptability for the proposal are:-
- Compatibility with surrounding land uses
 - Whether the site has a good landscape framework
 - Whether the proposal will adversely affect the landscape character of the AGLV.
 - Whether or not the proposal is acceptable in land use terms.
- 5.2 It is somewhat surprising that the Proposed Green Belt Policy has emerged as a reason for refusal. The Report of Handling fully acknowledges that the matter of the application of Housing in the Countryside Policy within the Proposed Green Belt is subject to outstanding objections to be considered during the Examination of the Proposed LDP. This reason for refusal effectively pre-determines the outcome of the LDP Examination.
- 5.3 Furthermore the Report of Handling implies that TAYplan provides a definitive requirement for Green Belt around Kinfauns. It does not. Infact the purpose of the Green Belt as set out in TAYplan is to maintain the landscape setting of Perth and prevent coalescence with Scone. There is no mention of requirement for the Green Belt to surround Kinfauns in TAYplan.
- 5.4 Bearing in mind the outstanding LDP objections on the critical issue of application of HITC Policy within the Green Belt, issues that can only be properly considered at Examination and not planning applications, Policy NE5 carries insufficient weight to base a sound reason for refusal.

6 Summary

- 6.1 This Review Statement has addressed each of the reasons for refusal in accordance with the provisions of the Development Plan and other relevant material considerations.

6.2 It is considered that:

- The application site has a good landscape framework as a result of mature landscaping and rising landform to the rear, in accordance with Policy 1 of the Adopted Local Plan and as recommended by PKC in pre-application advice given in 2009.
- Has a negligible impact on the purpose or integrity of the AGLV by way of its good landscape setting and negligible impact on the wider landscape
- Meets the Policy tests set out in Category 3.4 of the HITCG 2012, which supersedes the Adopted Local Plan HITC Policy (1995)
- Policy NE3 is a premature reason for refusal which prejudices the outcome of the forthcoming LDP Examination.

6.3 In accordance with the provisions of S25 and S37(2) of the Town and Country Planning Act 1997 as amended, it is therefore respectfully required that this application is approved.

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Appendix A

Copy of Previous Planning Statement

Planning Statement

Mr & Mrs Barratt
New Dwelling on Land to the South of Kinfauns
March 2013



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1 Introduction

- 1.1 This statement is submitted on behalf of Mr and Mrs Barratt in support of their application for a new dwelling on land to the south of Kinfauns.
- 1.2 This is a follow up submission after an earlier application was refused and subsequently dismissed at Review. The Barratt's now have material evidence to support their proposal and submit this application to address the concerns raised in the previous submission.
- 1.3 The previous application 12/00667/IPL was refused on 28 August 2012 for the following reasons:
- i As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites are large enough to accommodate the development proposed.
 - ii As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
 - iii As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Policy on Housing in the Countryside (2009) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.
- 1.4 Subsequently the Review was dismissed and the original decision upheld, although it was some seven weeks after the LRB meeting that the Barratt's finally received formal confirmation of the Review decision. The LRB added a further reason for refusal:
- iv The proposal is contrary to the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), Policy 12 in that there is a presumption against built development within the AGLV and there is no operational need.
- 1.5 This statement will set out the Barratt's case for the development, addressing the above reasons for refusal and providing justification against current Development Plan policy and other material considerations.

2 Background

- 2.1 The Barratt's have lived in the family home with their two children at 3 The Old School, Kinfauns for over 10 years. The house is an end of terrace one and three quarter storey house. It is relatively small, comprising a living room, kitchen, bathroom, and two bedrooms on the upper level within the roofspace. The two children currently share the second bedroom.
- 2.2 The Barratt's children Sophie and Adam are now six and three years of age respectively. The current level of accommodation at 3 The Old School is too small for their growing family in terms of modern, comfortable living standards. Therefore a solution is required to resolve the Barratt's inadequate housing situation.
- 2.3 In January 2011 Sophie was diagnosed with Rolandic Epilepsy, a condition where epileptic attacks are most common either at night or first thing in the morning. Since this diagnosis the Barratt's have had to take down the bunk beds and place them side by side, which essentially takes up the entire room, with only enough space to open the bedroom door and step into the room. It is not recommended that children with this condition sleep in bunk beds.
- 2.4 The existing house is listed as being of special architectural or historic interest, Category B. Whilst that in itself does not exclude extension of the house as an option, it is certainly a complicating factor. However, extension of the house is not an option because the ground surrounding the house, the former school playground, is not owned by the Barratt's. It is communal ground and therefore the Barratt's have no legal right to build on it. The land also provides access to garaging and even if they did have the right to build on the land, they would ultimately block access to the garages impinging on the rights of access of others. Therefore extension of the existing house is not a viable option.

3 Statutory Context

- 3.1 In accordance with sections 25 and 37(2) of the Town and Country Planning Scotland Act 1997, as amended, this application should be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 3.2 In this case the Development Plan comprises the Perth Area Local Plan 1995, incorporating Alteration No.1 Housing Land (2000), and TAYplan. The Perth and Kinross Local Development Plan is emerging and will be subject to an Examination in Public in 2013. Whilst it represents the Council's settled view, in reality given the outstanding objections to the Proposed LDP, it carries little weight as a material consideration at this stage.

- 3.3 Material considerations include Scottish Government Policy and Advice, including the SPP and PAN 72, and PKC SPG including Housing in the Countryside Policy November 2012.

4 Development Plan

- 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 beyond consultation, and an Examination in public should be held over summer 2013. 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.

5 Material Considerations

- 5.1 The Council's housing in the countryside policy of November 2012 is a material consideration in the assessment of this application. As the Council's most recent statement of Policy on the topic, it carries significant weight.
- 5.2 Policy guidance contained within the SPP (2010) is also a significant material consideration.
- 5.3 As these statements are much more recent and up to date than the 1994 Policy contained within the Local Plan, it is considered that they strongly outweigh the adopted Local Plan, and the limited weight that can be afforded to the emerging LDP.
- 5.4 Planning Advice Note 72 is also relevant to this case in respect of the siting and design of houses in the Countryside. On a similar theme, the Council's Siting and Design of Housing in Rural Areas, although also extremely dated, is also relevant.

6 Assessment

- 6.1 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.
- 6.2 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.
- 6.3 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."
- 6.4 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.
- 6.5 However, the adopted Local Plan is now well out of date. The housing in the countryside policy is some 19 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.
- 6.6 The key document in this case is the 2012 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.
- 6.7 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.
- 6.8 However, one must also take into account the purpose of the AGLV designation in assessing these proposals.
- 6.9 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 1

- 1/01986/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

- 6.10 Planning application 08/00417/OUT was granted at appeal by the Scottish Ministers following PKC's refusal to grant planning permission.
- 6.11 In January 2013, the Perth and Kinross Local Review Body upheld an appeal against the refusal of planning application 12/01323/IPL.
- 6.12 In the assessment of planning applications listed above a significant trend has emerged which is material to the assessment of this application.
- 6.13 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 surroundings 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 2012.
- 6.14 The proposed development is not an infill site, and is not development within building groups. It proposes the erection of a new dwelling in the open Countryside. Accordingly Category 3 of the housing in the countryside policy 2012 is relevant.
- 6.15 In the introduction and background sections it has been established that the applicant has a growing family housed in small and constrained accommodation. The house cannot be extended, as the applicant does not own the land immediately surrounding the house. There is no doubt that larger accommodation is required.
- 6.16 Category 3.4 of the housing in the countryside policy contains provisions for a new dwelling where:
"A house is required for a local applicant who has lived and/or worked in the area for at least three years, and is currently inadequately housed.

Proof of residency and/or work status may be required.

Note: The offer of a Rural Home Ownership Grant (or similar) by the Housing Investment Division of the Scottish Government will also be accepted as proof of need."

- 6.17 The Barratt's have been part of the community at Kinfauns for over 10 years and are quite clearly local to the area, with Adam and Sophie representing the 5th generation of the family in Perthshire. The Barratt family is a single income family and Mr Barratt has worked locally in the forestry industry during this period. Accordingly, the applicants meet the criteria for living and working in the area for at least three years. Therefore the key determining issue in this category is the interpretation of 'inadequately housed'.
- 6.18 The policy states that proof of a rural home ownership grant may be accepted as proof of need. It does not give any definition of what may be classed as inadequately housed.
- 6.19 The Communities Scotland Guide to RHOG states:
- "Some parts of rural Scotland have limited opportunities for local people to buy or build their own homes. This can be due to the higher building costs in rural areas; the lack of suitable land for building; existing housing being in the wrong place or high property prices."
- 6.20 In this case the Barratt family would not be able to afford to purchase their current home if it were being purchased today, as a result of the significant rise in property prices. Accordingly their situation would be considered suitable for an RHOG application.
- 6.21 The Guide goes on to state: "Rural Home Ownership Grants (RHOGs) are provided by Communities Scotland, the Scottish Executive's housing and regeneration agency. The grants aim to help sustain rural communities by making it easier for local people on low or modest incomes to own their own home and to meet their housing needs or aspirations within their own community."
- 6.22 Over the 10 years the Barratt's have resided in Kinfauns they have become and wish to remain an integral part of the community. It is clear from the support from local residents to the original planning application that they would be keen for the Barratt's to remain in the area also.
- 6.23 The Guide confirms to whom the grant would be available:
- "if you are employed or have received a formal offer of employment in the local area where you want to set up home;
- to pensioners and to those who are unfit for work due to sickness or disability who may qualify if they have resided in the local area for more than a year, have a family or local connection, and can meet the majority of the costs involved;
 - if your total household income is insufficient to purchase a suitable property without grant assistance;
 - only where all other sources of funding and grants have been explored and fully taken up."

- 6.24 It is apparent that the Barratt's would meet the criteria set down by Communities Scotland for a RHOG, although it is conceded that as the Barratt's have not applied for RHOG they do not have the offer of a grant. Nonetheless, the fact that their situation would make them eligible for RHOG must be taken into consideration as an indication of their need for a new home.
- 6.25 Turning to the matter of the definition of "inadequately housed", the applicant has contacted Perth and Kinross Council's housing service in order to establish their standard housing requirements for a family of two adults and two children of different sexes.
- 6.26 The Council confirm that for a couple and two mixed sex children under the age of ten, the requirement is two double bedrooms. The Barratt's current situation of one double and one single bedroom falls short of the Council's own standard housing requirement. Furthermore for a couple with two mixed sex children with one or both over the age of ten, the Council's own standard is for three double bedrooms.
- 6.27 In the absence of any formal explanation of the expression "inadequately housed" in the housing in the countryside policy 2012, the Council's own housing standards are considered to be an appropriate means of assessing what could be considered inadequate.
- 6.28 In summary, in accordance with Perth and Kinross Housing Standards, the Barratt's current home is too small and therefore could be described as 'inadequate', a situation that will only get worse in the coming two/three years. They cannot extend their home as they do not own the land immediately surrounding it. To all intents and purposes they meet the criteria for assessment of RHOG.
- 6.29 Regardless of the deficiencies of this particular policy, it is clear that the Barratt's are currently inadequately housed. Therefore, as explained above, it is also clear that they meet the criteria specified in Category 3.4 of the housing in the countryside policy.
- 6.30 Therefore, providing that the application site has a suitable landscape setting the proposal should be considered in accordance with the housing in the countryside policy 2012.
- 6.31 The site benefits from the topography of the local landform which rises significantly to the north of the site to the existing housing at Kinfauns. This is complemented by existing trees to the immediate rear (west) of the site and new 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. Drawing 156-01 and document 156-02 illustrate this in some detail.

- 6.32 The site is not readily visible to wide public views as a result of the topography of the local landform. Existing embankments hide the site from view from the main Dundee to Perth road to the South, with only fleeting glimpses available approximately one mile to the east. When turning off the main road onto the Kinfauns and Balthayock Road the clearest view of the site is obtained. However, in this view the proposed houses would be seen against a backdrop of existing stand of trees to the rear and rising landform to the north. The existing landform and back clothing would visually absorb the impact of the proposed dwelling which would not appear incongruous in the locality. Indeed, the use of backclothing and landform in fitting development into the landscape is supported and endorsed in PAN72 and the Council's own Siting and Design Guidance.
- 6.33 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 sit comfortably in the landscape and that it can be accommodated without compromising the visual or residential amenity of the area.
- 6.34 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. There are no residential properties within close proximity of the proposed house and therefore the proposed development would not have a detrimental impact on residential amenity.
- 6.35 It therefore follows that the development of the site is in accordance with both categories one building groups, and two infill sites of the 2012 housing in the countryside policy. Therefore in accordance with the established determination method that has emerged in each of the cases mentioned in paragraph 6.9 above, providing the development can be accommodated without detriment to the purpose and integrity of the AGLV, the development should be considered acceptable.
- 6.36 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 2km east of the very eastern edge of Perth.
- 6.37 The site benefits from a sound landscape framework that will in time provide an exceptional framework for the proposed house. The rising landform to the north forms a permanent backdrop that is augmented and enhanced by existing mature trees to the west of the site and developing landscaping both within and surrounding the site.

6.38 When viewed from the south bank side of the River Tay from the Rhynd Road the site would be seen below the existing built form at Kinfauns, with rising landform and a belt of trees adjacent (see document 156-02). 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."

6.39 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.

6.40 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.

6.41 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 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.

6.42 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. Indeed, this view was shared by the planning officer in originally considering this case. The Report of Handling states:

"I am not convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV."

The Report later re-affirms:

"I am not convinced that the proposal would have an impact on the landscape character of the area"

- 6.43 The site also lies within an area highlighted within the Proposed LDP as being 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.
- 6.44 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)
- 6.45 Paragraph 159 confirms that "Green belt designation should provide clarity and certainty".
- 6.46 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.
- 6.47 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.
- 6.48 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 Perth and Kinross Local Review Body also recently decided to uphold an appeal (ref 12/01323/IPL) for a site in a similar position in the Proposed Green Belt. The Local Development Plan is no nearer adoption now than it was when those decisions were taken.

- 6.49 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.
- 6.50 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.
- 6.51 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.
- 6.52 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, any decision on the proposal based on Proposed Green Belt boundaries or policy assumes that the Proposed Local Development as a material consideration carries more weight than the adopted development plan.
- 6.53 However, this would take 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, it must justify itself by taking full account of the objections and representations to the Proposed LDP in reaching its decision.
- 6.54 These issues can 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.
- 6.55 Finally, Category 6 of the 2012 Housing in the Countryside Policy offers another means of considering the development of the site.
- 6.56 In 2006/7 the site was cleared and levelled with hardcore for use as a staff car park and site management compound during the construction of the A90 flyover. The underlying subsoil was removed from site for use in the formation of the flyover embankments and the topsoil was supposed to be retained for the reinstatement of the compound site post construction back to grade 2(3) agricultural quality ground.

- 6.57 The topsoil was not retained however and the site was not fully restored to the specified condition within the EIA consent. Instead the site had a thin layer of soil scraped from the edges of the compound area to cover the hardcore area and was reseeded with fox tail grass, which is commonly used on post industrial sites as it is renowned for its ability to grow on thin, poor, compacted ground, producing a tough, coarse grass unsuitable grazing. Around a third of the re-instated ground (where the plot is proposed) was too poor even for fox tail and eventually colonised with docks and thistles. The whole site remained derelict until the Barratt's purchased the ground and the surrounding woodland in 2009.
- 6.58 Under the EIA Regulations a site cannot be considered restored until the Competent Authority (PKC) can determine that the proposed restoration works have been carried out to a satisfactory standard. The regulations also require that the conditions of the EIA approval are monitored for a period of 10 years.
- 6.59 Given that the restoration requirements of the site have not been completed to the specified standard under the EIA consent issued by PKC, the site cannot be considered restored to agricultural status based on the EIA regulations.
- 6.60 The Delegated Report of Handling for the previous application conceded that by definition the site could be considered Brownfield, however as the site essentially "looks green" it cannot be considered Brownfield.
- 6.61 The purpose of the Greenfield vs Brownfield designations was to prevent the loss of virgin, agriculturally productive or ecologically important ground to development and to focus rural development on previously disturbed ground; by this definition this site is clearly Brownfield.

7 Conclusion

- 7.1 In the assessment of the previous application, the report of handling stated that the case officer felt that his opinion was that the policy was aimed at long term renters or persons living full time in temporary accommodation. There is no section of the housing in the countryside policy 2012, or the adopted local plan, or even the emerging LDP that confirms that this is the basis of the Policy. The Policy tests are that the applicant must be local, have lived and worked in the area for at least three years, and currently be inadequately housed.

- 7.2 This statement has demonstrated that the applicant is a local family who have lived and worked in the area for some ten years. The applicant has a growing family and they have clearly outgrown their current living accommodation. This fact is confirmed by Perth and Kinross Council's own housing standards. Further evidence of the need for the proposed new house is obtained by assessment of the eligibility criteria for RHOG. Therefore, according to the standards set down by the Council's housing department, the applicant is currently inadequately housed and therefore meets the tests set out in Category 3.4 of the housing in the countryside policy 2012.
- 7.3 Furthermore, it is considered that the existing landscape framework, comprising of tree cover and topography provides a setting for the site that complies with the best practice advice set out in PAN72 and the Council's Design and Siting Guidance. The emerging landscaping undertaken by the applicant will only further augment the already suitable framework.
- 7.4 In accordance with several recent decisions made by the Council, the site has a suitable landscape setting and will have no affect on the purpose or integrity of the AGLV.
- 7.5 It is therefore respectfully requested that this application be approved.

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Appendix B

Recent PKC AGLV Approvals

Appendix B

A selection of recent planning approvals for dwellings nearby and within the AGLV

13/00511/IPL | Erection of a dwellinghouse (in principle) | Land West Of Easter Tarsappie Rhynd

12/01436/FLL | Erection of 2 dwellinghouses | Land 120 Metres South West Of The Paddock Cargill

12/01323/IPL | Erection of dwellinghouse | Site North Of Flowerdale Cottage Rhynd

12/00882/FLL | Erection of 2 dwellinghouses | Land 80 Metres South East Of Over Kinfauns Farm Church Road Kinfauns

12/00216/IPL | Erection of a dwellinghouse | Netherwood Kinfauns Perth PH2 7JZ

11/01986/FLL | Erection of a dwellinghouse | Land 100 Metres North East Of Eastwood Kinfauns

11/01985/FLL | Erection of a dwellinghouse | Land 60 Metres West Of Greenwood Kinfauns

09/00676/FLL | Erection of 2 dwellinghouses | Westcliffe Kinfauns Perth PH2 7JZ

Linda Al-Ibrahimi

From: Susannah Knowles
Sent: 30 April 2013 14:26
To: Andy Baxter
Subject: HITG 2012 query
Attachments: Housing in the Countryside Supplementary Guidance (2).doc

Hi Andy,

After a lot of discussion we have attempted to define "currently inadequate housed". As this is our guidance Peter has suggested it should be incorporated into future guidance, he also asks if you could forward onto Nick as appropriate.

As there is currently no accepted or agreed definition of this phrase either in the guidance, the Local Development Plan or national guidance. Kate and I attempted to define the phrase (see attached document)

The Council's Common Allocations Policy (2010) which seeks to define and grade current housing need. This document specifically deals with the social rented sector, so it is challenging to apply it to a situation where the adequacy of private housing is in question. According to our policy many households may get some points but perhaps not enough which would mean that they are re housed in a reasonable length of time. For example if they are short of a bedroom but every other aspect of the house is suitable they would get some points but are unlikely to be re housed within a reasonable timescale – if ever. Therefore perhaps we could define our reference to the policy a bit closer by stating if some aspect of their house is deemed to be unsuitable for their needs we would consider that they could be seen to be inadequately housed

Even if it is considered that the potential applicant meets this definition of "currently inadequately housed", we would still have to take a view on the other criteria listed in para 3.4 – whether the applicant is considered to be "local" i.e. he has lived and/or worked in the area for at least 3 years. Proof of residency and or work status may be required. (please see attached for definitions)

If we strictly apply the policy and guidance as written, it would seem that if the applicant can demonstrate he is "local" and currently "inadequately housed", then a new house in the open countryside would be supported by the council. I would, however, like to think that we could at least ensure that all reasonable alternatives had been investigated (e.g. existing properties within an agreed distance or even extension of his current home). A reference to how the applicant can meet the open market is another avenue to be investigated as well.

I hope this help- If you need any more advice just get in contact.

Many thanks,

Susannah Knowles
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11/06/2013

CONSULTATION ON PLANNING APPLICATION



To: Development Management
From: Ron Moody
Date: 27/03/13
Planning Reference: 13/00585/IPL

Description of Proposal: Erection of dwelling Kinfauns Perth

Local Plan: Perth Area

1. Adopted local Plan

The site is part of the Area of Great Landscape Value where policies 11 to 15 apply. Policy 12 presumes against built development unless necessary for operational need.

2. TAYplan

The approved SDP requires a green belt to be designated around Perth. Policy 3 applies.

3. Perth and Kinross Proposed Local Development Plan

The site lies within the area identified as green belt in the proposed LDP within this area Policy NE5 applies. The proposal is contrary to this policy.

4. Comments

The site lies within the existing AGLV in the adopted plan and the Green Belt in the proposed LDP. The application is contrary to the existing and proposed development plan policy and should be refused.

The examination into the unresolved representations on the LDP commenced on the 25 March 2013 there are no unresolved representations which relate specifically to this site. However there are a number of unresolved representations which relate to the green belt policy and in particular to the application of the housing in the countryside policy within the Green Belt. The Council did not approve any modifications to the green belt policy framework in its schedule 4 response (approved 23Jan 2013) which has been submitted to ministers.

The Green belt and its policy framework is different to other LDP policies in that it is underpinned by the approved SDP. This means that there will have to be a green belt in the general area of Kinfauns if the LDP is to be consistent with TAYplan as is required by the Act.

I feel that the construction of a single house in this particular location would be particularly damaging to the proposed green belt. While it might be unwise to reply solely on the LDP it is my view that it is a material consideration which should be given some weight. The proposal is also contrary to the existing policy framework set out in the adopted plan.

TCP/11/16(264)
Planning Application 13/00585/IPL - Erection of a dwellinghouse (in principle), Land 250 metres south west of 3 Old School, Church Road, Kinfauns

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENTS *(submitted as part of applicant's submission, see pages 127-128 and 162-177)*

PERTH AND KINROSS COUNCIL

Mr Tim Barratt
c/o Bidwells
FAO Steven Cooper
5 Atholl Place
Perth
PH1 5NE

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 14th May 2013

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **13/00585/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 20th March 2013 for permission for **Erection of dwellinghouse and formation of vehicle access (in principle) Land 250 Metres South West Of 3 Old School Church Road Kinfauns** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites have a suitable landscape framework.
2. As the site is located within the AGLV, and is for a proposal which is not necessary for operational need, the proposal is contrary to the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), Policy 12 which states that there will be a presumption against built development within the AGLV except for operational need.

- 3 As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
- 4 As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Housing in the Countryside Guide (2012) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.
- 5 As the proposal relates to a development which is not essential for agriculture, horticulture or forestry operations, the proposal is contrary to Policy NE5 (Green Belt) of the proposed Local Development Plan 2012 where it explicitly states that the Housing in the Countryside Policy does not apply.

Justification

The proposal is not in accordance with the Development Plan or the approved, proposed Local Development Plan 2012 and there are no material reasons which justify approval of the application.

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

13/00585/1

13/00585/2

13/00585/3

PERTH AND KINROSS COUNCIL

**ERECTION OF A DWELLING HOUSE (IN PRINCIPLE) LAND 250 METRES
SOUTH WEST OF 3 OLD SCHOOL, CHURCH ROAD, KINFAUNS**

DELEGATED REPORT OF HANDLING

Ref No	13/00585/IPL	Case Officer	Team Leader	Decision to be Issued?	
Ward	N1 – Carse	<i>RS/LS</i>	<i>13/5/13 AC</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Target	20 May 2013				

RECOMMENDATION

Refuse the planning application on the grounds that the proposal is contrary to the Development Plan, the 2012 Housing in the Countryside Guide and the proposed Local Development Plan 2012.

BACKGROUND & DESCRIPTION

The application site relates to a regular shaped site at Kinfauns which was formerly part of the construction site associated with the A90 Kinfauns flyover project. The 0.015 ha site is approx 32m in its width (east to west) and approx 66m in its length (north to south) and sits in a dip in the landscape north of the flyover and south of Church Road - a run of residential properties that sit proud on higher ground. Immediately to the west of the site is a mature tree belt, with the other boundaries defined by a combination of post and wire fencing and planted hedgerows. Vehicular access to the site is via an existing tarmac entrance which leads into the adjoining field.

The site lies within an Area of Great Landscape Value (AGLV) as defined in the adopted Local Plan, and within the Green Belt as defined in the proposed Local Development Plan 2012.

This planning application seeks to obtain a planning in principle consent for the erection of a single dwelling. A new vehicular access from the existing tarmac entrance will be formed. An indicative house type showing a traditional dwelling, with accommodation over two levels (with the upper level within the roofspace) has been submitted by the applicant.

A similar proposal (12/00667/IPL) was refused by the Planning Service last year under delegated powers and a subsequent review to the Councils Local Review Body dismissed.

APPRAISAL

Sections 25 and 37(2) of the TCP (S) Act 1997 (as amended by the 2006 act) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. The Development Plan for the area comprises the recently approved Tay Plan 2012, and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).

In terms of the Tay Plan, although there are general policies of broad relevance contained in the plan, the key policy of note is *Policy 3 (Managing Tay Plans assets)*. This policy states that a Green Belt will be designated around Perth. Although the exact boundaries of the Green Belt will not be finalised until the proposed Local Development Plan is finalised, it is accepted that the area around Kinfauns will be included in the final designation.

Within the Local Plan, the site lies within the landward area and within an area designated as being one of great landscape value where *Policies 1, 12 and 32* are directly applicable. *Policy 1* relates to all new developments within the landward area and seeks (amongst other things) to ensure that all new sites are compatible with existing land uses and that all new sites have a suitable landscape framework which is capable of absorbing the development which is proposed, whilst *Policy 32* refers to new Housing in the Countryside. *Policy 12* of the Local Plan, states that there will be a presumption against new development within the AGLV, unless there is a proven operational need.

In terms of other material considerations, National Planning Guidance, the Councils other approved policies (namely the Developer Contributions 2012 and HITCG (2012)) and the contents of the proposed LDP are all material considerations. The Developer Contributions document outlines instances when the council will seek financial contributions for new developments, and one of those instances is circumstances when new housing is proposed within the catchment of a primary school which is operating at over 80% capacity.

The HITCG 2012 is the most recent expression of Council policy towards new housing in the open countryside, and offers support for new housing providing certain criteria can be met and achieved.

Lastly, the approved proposed LDP is an expression of Council policies and proposals up to 2024. Within the proposed LDP, an area of Green Belt has been identified and it is likely that the area around Kinfauns (which this site is located within) will remain within the Green Belt designation. The proposed LDP explicitly states that the HITCPs will not apply within the Green Belt (*Policy NE5*). The examination into the unresolved representations on the LDP commenced on the 25 March 2013 and there are no unresolved representations which relate specifically to this site or the boundary of the Green Belt in this area. However there are a number of unresolved representations which relate to the Green Belt policy and in particular to the application of the housing in the countryside policy within the Green Belt. The Council did not approve any modifications to the Green Belt policy framework in its schedule 4 response (approved 23 Jan 2013) which has been submitted to ministers.

Based on the above, I ultimately consider the key test(s) of the acceptability of this planning application to be;-

- a) whether or not the site is compatible with its surrounding land uses
- b) whether or not the site has a good existing landscape framework
- c) whether or not the proposal will adversely affect the landscape character of the approved AGLV and;
- d) whether or not the proposal is acceptable in land use terms

I shall address these issues in turn.

In terms of compatibility with existing land uses, the principal neighbouring land use of note is the busy A90 which is approx 100m from the site in a due south direction. There is no question in my mind that traffic noise arising from the A90 will result in an amenity issue for future occupiers, particularly during the night and I note that my colleagues in Environmental Health have raised concerns based on the (lack of) information which has been submitted with the planning application. However, I am somewhat reluctant to ask the applicant for a full NIA at this stage (based on the ultimate recommendation of refusal), so to this end, in the event that a review of this decision to the LRB were to be successful, I strongly recommend that an appropriately worded condition is attached to any consent which requires the submission of a full NIA as part of any detailed planning application. The NIA must include mitigation measures for noise from the A90, which may require bunding or re-contouring of the land between the site and the road.

In terms of the existing landscape framework, I accept that the site does have a definitive boundary along its western side via mature existing trees, however the remaining boundaries are all relatively new and comprise fencing and hedgerows - which I do not necessarily consider to constitute a good landscape framework. I appreciate that the applicants have undertaken excessive tree planting over the last few years to try and reform the landscape after the construction works associated with the flyover were completed (and are proposing further planting), however at the present time I do not consider the landscape characteristics of this site to be sufficient to merit it being classed as an acceptable site for a new house in the open countryside. I therefore consider the proposal to be inconsistent with *Policy 1* of the Local Plan.

In terms of the impact on the landscape character of the area, and the impact on the AGLV, as stated previously the Local Plan (through Policy 12) states that there is a presumption against new development within the AGLV, unless the development proposed is directly linked to operational need. However, prior to the advancement of the LDP and the Green Belt, the Council had taken a more liberal approach to this specific policy in this area in the past, with each proposal considered on its own individual merits, largely based on whether or not the proposal would have an adverse landscape impact.

Looking at the AGLV and Policy 12 in isolation from the content of the proposed LDP, in this case, the site in my view is clearly divorced from any existing building group and although the site sits in a hollow dip, a dwelling in this location will be visible from passing roads. However, its visibility will be somewhat limited, largely due to the fact that the site would not be in the natural sightlines of the passing roads. To this end, I am not convinced that in landscape terms the proposal will have an adverse impact on the landscape character of the AGLV. However, I note that after considering the previous planning application at the LRB, the members of the LRB took the majority decision that the proposal would have a impact on the AGLV. As that decision is a material consideration, I consider it reasonable to adopt the position which was taken at the LRB and to this end; I also consider the proposal to be contrary to Policy 12 of the Local Plan.

Turning to the issue of the acceptability of the land use (for residential), as the site falls within the landward area of the PALP, the proposal falls to be assessed against the Housing in the Countryside Policies (HITCP) as contained firstly within the Local Plan (Policy 32), and secondly, the revised HITCG of 2012 - which effectively supercedes the Local Plan version of the HITCP.

The applicants have made the application based on their view that the proposal accords with the aims of 2012 HITCG, namely category 3.4 which relates to houses for local people and that the issues relating to the sites physical characteristics and its location within the AGLV / proposed Green Belt are superseded by their need for a new dwelling. Category 3.4 of the HITCG offers some scope for new housing when the new house is a house required for a local applicant who has lived and/or worked in the area for at least 3 years, and is currently *inadequately* housed.

The applicants presently own a dwelling on Church Road, however the applicants consider this property not to be suitable for their family and without being able to readily extend their property, a new build on land within their control is considered by them to be the only scope for larger accommodation as their personal circumstances does not allow them to buy a larger property.

Available on *PublicAccess* is an Appendix Note from the Planning & Sustainable Development Manager which offers some supplementary guidance on what constitutes being *inadequately* housed - as there is currently no accepted or agreed definition of this phrase either in the HITCG 2012, the Local Development Plan or national guidance.

The Council's Common Allocations Policy (2010) seeks to define and grade current housing need. This document specifically deals with the social rented sector, so it is challenging to apply it to a situation where the adequacy of private, owner-occupied housing is in question. According to this policy, many households may get some 'points' but perhaps not enough which would mean that they are re-housed by the Council in a reasonable length of time. For example if a family are short of a bedroom (which appears to the applicants case) but every other aspect of the house is suitable (ie a permanent home which is of a good physical condition) they would get some points but are unlikely to be re-housed within a reasonable timescale, if ever.

Whilst the applicants are perhaps living in '*unsuitable*' accommodation, their accommodation would probably not be considered as being '*unsatisfactory*'. In addition, with the exception of indicating that they are a one wage family, no financial justification has been brought forward to demonstrate that they are priced out of the open market, based on their salary, savings, value of current property (and assets) and inability to secure grants or assistance in making the 'jump' from their existing home to a larger one.

The position that the applicants find themselves is extremely unfortunate and problematic, but it is nevertheless the same position a number of households (some of which are not homeowners) find themselves in across not only the county but the country. I therefore do not consider this proposal to accord with section 3.4 of the HITCG 2012.

In addition for housing for local people, HITCG 2012 also offers some scope for the re-development of Brownfield Land, where the proposal would remove dereliction and result in a significant environmental improvement, and the applicant has indicated that they consider this site to meet with this category of development. Although the site by definition, could perhaps be argued to be Brownfield due to its involvement in the flyover construction, it is nevertheless now 'Greenfield' with no obvious visual remains of the former engineering works on the site and no visual evidence of any dereliction. I therefore find it difficult to offer any support for the proposal under this section of the 2012 guide either.

I therefore consider the proposal to be contrary to the Housing in the Countryside Policies, as contained in the Local Plan and the revised 2012 version.

However, in terms of land use, the contents of the proposed LDP is also a material consideration. The Council has approved its proposed Local Development Plan 2012, and this document is accepted to be a significant material consideration in the determination of planning applications. Within the proposed LDP, the site lies within the landward area and within an area which has been designated as a Green Belt.

Policy NE3 of the LDP explicitly states that the Housing in the Countryside Policies does not apply within the Green Belt and that any development must be limited to agriculture, horticulture or forestry operations. The Green Belt and its policy framework is material different to other LDP policies in that it is underpinned by the approved Tay Plan 2012, which effectively means that Perth and Kinross will have to have a Green Belt in the general area of Kinfauns if the LDP is to be consistent with Tay Plan as is required by the Planning Act.

To this end, I consider the Councils requirement for the identification of the area as a Green Belt to increase the restrictions on new development in this area, particular as the settled view of the Council, as expressed in the proposed LDP is that the HITCG 2012 should be not applicable within the Green Belt. To this end, I therefore consider the proposal to be contrary to the proposed LDP.

In terms of other material contributions, this includes consideration of the Developer Contributions document and consideration of bio-diversity issues. In terms of the Education Contributions, as the proposal is for planning consent in principle, in the event that a review to the LRB were to be successful, an appropriately worded condition should be attached to the consent seeking compliance with the requirements of the Development Contributions document.

Lastly, in terms of bio-diversity although I have no knowledge of any protected species being present within the site, it is likely that some local wildlife maybe present within the site. However, I consider this matter to be fully addressable at a detailed application stage with the submission of a habitat / species survey.

In conclusion, whilst I appreciate that the proposal has gained support from the local community and the personal circumstances of the applicant is difficult in their existing home; I do not consider there to be sufficient justification for a departure from approved Council policy. To this end, I (again) recommend the planning application for a refusal.

NATIONAL PLANNING GUIDANCE / POLICIES

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.

The 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.

Of relevance to this application is paragraphs 92-97 which relates to rural development

Planning Advice Note 73 – Housing in the Countryside

Designing Places, published in November 2001, sets out the then Scottish Executive's expectations of the planning system to deliver high standards of design in development for rural and urban areas. The design based Planning Advice Note (PAN) series is an additional means by which we can maintain the profile of design and identify best practice in planning for high quality development. This PAN supersedes and reinforces many of the key themes set out in *PAN 36 Siting and Design of New Housing in the Countryside* (published in 1991) and brings the advice up to date with the new emphasis on design and quality. The advice in this PAN sets out key design principles which need to be taken into account: by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.

DEVELOPMENT PLAN

The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000). Within the Tay Plan there are no specific policies of specific relevance relevant to this proposal.

Within the Local Plan, the site lies within the landward area, where the following policies are directly relevant.

Policies 1(General Development) states that all developments within the Plan area will be judged against the following criteria (amongst others)

- The site should have a landscape framework capable of absorbing, and if necessary, screening the development, and where appropriate opportunities for landscape enhancement will be sought.
- The development should be compatible with it's surroundings in land use terms and should not result in a significant loss of amenity to the local community.

Policy 12 (AGLV) states that there will be a presumption against built development within the AGLV, except for operational need.

Policy 32 (Housing in the Countryside Policy) is the local plan version of the Council

in the Housing in the Countryside Policy which offers support for new housing providing that certain criteria can be met.

OTHER COUNCIL POLICIES

Proposed LDP 2012

The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. Currently undergoing a period of representation, the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application.

Within the proposal LDP, the site lies within the landward area within an area identified as a Green Belt, where Policy NE5 is directly applicable. This policy explicitly states that the HITCP does not apply in this area.

Housing in the Countryside Guide 2012

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 & Kinross. This policy offers a more up to date expression of Council Policy towards housing in the countryside to that contained the Local Plans and recognises that most new housing will continue to be in or adjacent to existing settlements, and states that the Council will support proposals for the erection of single houses in the countryside which fall into certain specified categories. It should be noted that the proposed LDP 2012, which is at an advanced stage but yet to be finalised, states that this policy will not be applied within the area designated as Green Belt.

Developer Contributions 2012

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. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

SITE HISTORY

A similar proposal was refused planning consent last year (12/00667/IPL) after consideration by the Council's Local Review Body.

PKC CONSULTATIONS

Transport Planning have commented on the planning application and have raised no concerns.

ECS has commented on the planning application and confirmed that the local primary school is operating presently operating at over its 80% capacity.

Environmental Health Manager has commented on the proposal and indicated that a NIA is required to ensure that noise from the nearby A90 can be suitably mitigated.

EXTERNAL CONSULTATIONS

Scottish Water have been consulted on the planning application and raised no comment.

REPRESENTATIONS RECEIVED

One letter of support has been received from a neighbouring local resident.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required.
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	None

PUBLICITY UNDERTAKEN

The application was advertised in the local press on the 29 March 2013.

LEGAL AGREEMENTS REQUIRED

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDED REASONS FOR REFUSAL

- 1 As the proposal does not have an established landscaping framework, the proposal is contrary to Policy 1 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), which seeks to ensure that all sites have a suitable landscape framework.
- 2 As the site is located within the AGLV, and is for a proposal which is not necessary for operational need, the proposal is contrary to the Perth Area Local Plan 1995 (Incorporating Alteration No 1 Housing Land 2000), Policy 12 which states that there will be a presumption against built development within

the AGLV except for operational need.

- 3 As the proposal relates to an isolated site, the proposal is contrary to Policy 32 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) as the proposal does not accord with any of the acceptable categories of development i.e. (a) development zones (b) building groups (c) renovation of abandoned houses (d) replacement houses (e) conversion of non-domestic buildings (f) operational need.
- 4 As the proposal relates to an isolated site and there is insufficient justification to support the proposal as an exceptional stand alone dwelling, the proposal is contrary to the Council's Housing in the Countryside Guide (2012) as the proposal does not accord with any of the acceptable categories of development i.e. (1) Building Groups (2) Infill Sites (3) New houses in the open countryside (4) Renovation or Replacement (5) Conversion or Replacement of Redundant Non-Domestic buildings or (6) Rural Brownfield Land.
- 5 As the proposal relates to a development which is not essential for agriculture, horticulture or forestry operations, the proposal is contrary to Policy NE5 (Green Belt) of the proposed Local Development Plan 2012 were it is explicitly states that the Housing in the Countryside Policy does not apply.

JUSTIFICATION

The proposal is not in accordance with the Development Plan or the approved, proposed Local Development Plan 2012 and there are no material reasons which justify approval of the application.

INFORMATIVES

None

PROCEDURAL NOTES

None

REFUSED PLANS

13/00585/1
13/00585/2
13/00585/3

TCP/11/16(264)

Planning Application 13/00585/IPL - Erection of a dwellinghouse (in principle), Land 250 metres south west of 3 Old School, Church Road, Kinfauns

REPRESENTATIONS

- Letter of support from Mrs J Sampson, dated 10 April 2013
- Representation from Mrs J Sampson, dated 30 July 2013
- Agent's response to representation, dated 6 August 2013

Mrs joyce sampson (Supports)

Comment submitted date: Wed 10 Apr 2013

Dear Sirs

I wish to record my full support for this application by Tim and Sarah Barratt.

I have lived in Kinfauns for 26 years, seeing the village grow from a few houses and farm to a community of some 19 houses. The Barratt Family have become an integral part, and being one of only two families with small children, a vital part, giving some balance to an otherwise older group.

In all country areas it is essential that local families be housed without having to move from good neighbours and from the area where the children are growing up and being schooled. Surely this is what is intended in Policy 3.4 Houses for local people .How sad it would be to lose them from Kinfauns when this realistic solution is available.

In discussion with other residents I have heard of no objections to the erection of this dwellinghouse and it is obvious that this much loved family who are working in and with our small community deserve this chance to stay amongst us.

Sincerely

Joyce E Sampson

CHX Planning Local Review Body - Generic Email Account

From: JOYCE SAMPSON [REDACTED]
Sent: 30 July 2013 20:46
To: CHX Planning Local Review Body - Generic Email Account
Subject: Application Ref: 13/00585/IPL

Gillian Taylor
Clerk to the Local Review Body

Application Ref: 13/00585/IPL – Erection of dwellinghouse and formation of vehicle access (in principle), land 250 metres south west of 3 Old School, Church Road, Kinfauns – Mr T Barratt

Dear Gillian Taylor

I wish to record my full support for the Application of Tim and Sarah Barratt, for a Review of the decision made by the P & K Local Review Body.

I have lived in Kinfauns for 26 years, seeing the village grow from a few houses and farm to a community of some 19 houses. The Barratt Family have become an integral part, and being one of only two families with small children, a vital part, giving some balance to an otherwise older group.

In all country areas it is essential that local families be housed without having to move from good neighbours and from the area where the children are growing up and being schooled. Surely this is what is intended in Policy 3.4 Houses for local people. How sad it would be to lose them from Kinfauns when this realistic solution is available.

In discussion with other residents I have heard of no objections to the erection of this dwellinghouse and it is obvious that this much loved family who are working in and with our small community deserve this chance to stay amongst us.

Sincerely

Joyce E Sampson
30/07/13

CHX Planning Local Review Body - Generic Email Account

From: Steven Cooper [Steven.Cooper@bidwells.co.uk]
Sent: 06 August 2013 15:06
To: CHX Planning Local Review Body - Generic Email Account
Subject: RE: TCP/11/16(264) - Land 250 metres south west of 3 Old School, Church Road, Kinfauns

Dear Sirs

We note and welcome this letter from Mrs Sampson, which points to the strong local support for this appeal. The original application received 6 letters of support from the Community and no objections, which at the current occupancy of the village represents approximately 35% of the Community. This is especially significant compared to previous applications at Kinfauns which all attracted significant objections and no local support.

This local support underlines the importance of adequately considering Community interests in all Planning applications, especially applications such as this where both the Planning Policies and the local Community clearly support the principle of development.

We look forward to the appeal progressing to the next available LRB meeting.

Regards

Steven

Steven Cooper
Senior Planner
Planning
Scotland

